

# DAVENPORT'S GEORGIA WILLS AND ESTATE PLANNING LEGAL FORMS



# **DAVENPORT'S GEORGIA WILLS AND ESTATE PLANNING LEGAL FORMS**

**written by attorneys  
Alex Russell and Beth Farmer**

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# CHAPTER 1

## BOOK BASICS AND LIST OF FORMS

### **“ESTATE PLANNING” CONTROLS THINGS IF LATER ABSENT, SICK, OR DEAD**

From Davenport Publishing and written by attorneys this book covers “Estate Planning” which is doing legal documents to later control health care, property, money, children, and funeral if absent, sick, or dead.

### **GEORGIA LAW APPLIES TO MOST PEOPLE HERE OR PLANNING TO RETURN**

This book is for Georgia. Due to different laws forms for 1 state cannot be safely used outside the state. State law on Wills apply if person: a) resides here as their main home, or b) resided here and left with firm plans to return even if person lives in home elsewhere like some students, military, and workers on projects. For health care forms people should consider doing forms to match the state a hospital or other facility is in.

### **BOOK IS SHORT, HAS FORMS TO QUICKLY SEE, AND USES EMPHASIS**

This book written by attorneys is short so may read rough but lets person read in day basics of this area. The book also has ready-to-use legal forms people can quickly see and use. For emphasis paragraph titles, underlining, and boxes are used. To save space some small words are skipped and end quotation marks put before the period. This book capitalizes some legal words like Will, Testator, and Agent but this is optional. Some pages may be blank which people should ignore, for reasons like not have writing on back of forms.

### **PEOPLE CAN IN FEW WAYS GET FORMS, FILL IN SOME BLANKS, THEN SIGN**

To get forms people can 1) photocopy pages from a book (available at Amazon.com), 2) tear or cut out pages from book, or 3) at www.davenportpublishing.com download PDF or Word Doc of book with forms. Forms have page numbers whited-out, and if doing forms confirm whited-out area just covers page numbers. To fill in forms use computer or handwrite using pen, marker, or even pencil (some spaces can be left blank). When no more changes will be made people should sign and date in ink (with witnesses or notary if needed). Most forms use blank spaces and underlining to show where to add words (like, “I give \_\_\_\_\_ to \_\_\_\_\_”).

### **FORMS ARE BINDING LEGAL DOCUMENTS AND DO SIMPLE THINGS WELL**

Legal forms make binding legal documents that judges, doctors, families, banks, and others must follow. Instead of forms a lawyer can be paid to write documents but may cost \$1,000+ per person, take months, push complex options, make mistakes, charge to re-do forms, and often a lawyer just uses forms too. In life people weigh costs and benefits and often pick low cost option despite risk. Forms are very good at doing many of the simple things involved in Estate Planning. Estate Planning studies show a surprising 60% of people die without doing anything, 19% use a lawyer, and 21% use legal forms.

### **ESTATE PLANNING DOES SIMPLE THINGS AND PERSON SAYS WHAT TO DO**

Estate Planning does mostly simple things, like say who gets things, who does job like Executor or Agent for health care, and health care wishes. Estate Planning even done sloppily often works fine and what was wanted happens. People have a legal right to control their health care, property, money, or family issues, and judges, doctors, and others just ask: “Based on what person wrote what did they likely want done?”

## **BOOK AND FORMS SUIT PEOPLE WITHOUT STRANGE SITUATIONS OR WISHES**

This book and forms can't cover everything but should suit people without strange situations or wishes about Estate Planning, which is probably over 80% of people. Most people know if they have strange wishes or situations in this area so are in the small fraction who maybe should do legal research or see a lawyer. Strange situations or wishes that may lead to research or a lawyer include: a) strange wishes for gifts, b) wealth over \$2 million, c) big medical concerns in family including extreme old age, d) property or money going to person with "special needs" or disability, or e) wish to hide assets to qualify for government programs.

## **BOOK COVERS LAW MOST PEOPLE NEED AND SOME STATE DIFFERENCES**

This book covers what most people want to know. State laws across the U.S.A. are fairly similar and this book covers the normal law, and this book also covers some ways Georgia state law is different. People in some cases may want to research Georgia state law further or go see a lawyer.

## **BOOK PROVIDES GEORGIA "STANDARD FORM" OR SUITABLE FORM**

Often an Georgia agency, hospital, or legislature has made a form most people in state use and call the "standard form", and doctors, judges, or others may not like or understand a different non-standard form. This book does provide the standard state form in a legal area if it exists, and in other areas authors have written a suitable form. Making small changes to forms is rare but often fine if what is wanted is clear. A form put in law by the state legislature for people to find and use if wanted is called a "statutory form".

## **COSTLY ESTATE PLANNING OFTEN LESS HELPFUL THAN LIFE INSURANCE**

Despite what people may think Estate Planning is usually not vital and worth much time or money. It usually does not: cut delay much, create new wealth, cut taxes unless person is multi-millionaire, cut legal costs much, or affect health care much unless person is suddenly incapacitated and rush decision needed. For young adults or parents the benefits of costly Estate Planning seem low since only about 9% of people die before 60, and only 0.2% of children under 19 had 2 parents die to probably need a Guardian. See *Social Security Census Tables by Felicitie Bell; Life Factors & Mortality Study, Census Study 288*. Advice that people pay \$1,000+ a person repeatedly in life for complex Estate Planning seems bad advice. In general just saving money in the bank is often best to help family. Or if people want to spend money they can buy term life insurance of \$100,000 via questionnaire but no exam ("simplified issue") for \$40+ a month or \$400+ yearly from places like MetLife, State Farm, Haven, Ladder, SBLI, AIG, and Bestow.

## **ESTATE PLANNING DOES SIMPLE THINGS IN 3 MAIN AREAS WITH 9 FORMS**

Estate Planning seems complex but mostly is person doing documents to control things in 3 areas: a) **After Death**, b) **Health Care**, and c) **Giving Power**. Forms can overlap or duplicate each other a lot. Most people do 1 or 2 forms, like many people do 1 Will and 1 health care form, but some people do more. Many people re-do forms every 10 years or so. This book covers 9 Georgia legal forms (see next page).

## **AFTER DEATH FORMS**

**Form 1. Last Will And Testament (Standard)** – lets person control some things after death especially gifts of property and money, and this Form 1 is the most used Will in this book and suits most people.

**Form 2. Last Will And Testament (Guardians)** – this is Will with parts added to name person as “Guardian” to if needed care for minor child under 18, and also person to care for their estate and property.

**Form 3. Self-Proving Affidavit** – done with Will to help later work of showing Will was properly signed.

**Form 4. Tangible Personal Property List** – lets person easily after Will is done write more gifts to occur after death of “tangible personal property” like cars, furniture, jewelry, tools, and clothes.

## **HEALTH CARE FORMS**

**Form 5. Advance Directive For Health Care** – lets person name someone “Health Care Agent” in case needed to later control health care, and also write health care instructions (including about stopping care if later doctors say person is very ill and more treatment won’t help -- many people call this a “Living Will”).

**Form 6. Do-Not-Resuscitate Order** – does serious act of saying immediately from now on do not give C.P.R. to restart heart or breathing, and does it in short form often used outside a hospital or similar facility.

## **GIVING POWER FORMS**

**Form 7. Statutory Form Power Of Attorney** – lets power over money, property, and more be shared during life with “Agent” who often is spouse, adult child, or good friend so they can help do things.

**Form 8. Power Of Attorney For The Care Of A Minor Child** – lets parent share power over minor child under 18 with someone so they can help control child’s health care, school, home, and discipline.

**Form 9. Designation To Control Remains**– lets person be named to control funeral and related issues, usually done if person doesn’t want closest family like spouse to do this as law says is normal.

## **OTHER FORMS LESS COMMON AND LESS USEFUL ARE NOT IN THIS BOOK**

This book skips some less common or less useful documents.

A “Codicil” can modify a Will but it’s easier and safer for person to just re-do whole Will.

Some people do “Revocable Living Trust” so “Trust” with “Trustee” holds property or money, done mostly to after death avoid small delay, costs, and work (by “avoiding probate”). This is rare as it requires moving items into a Trust with years of hassle, all for tiny later benefits for others who are happy to be getting things.

“Childrens Trust” papers so Trust holds minor child’s money or property until 18 is rare since it can cause hassle and costs for years, it rarely matters, and options exist like judge or Will naming a “Guardian” to help.

Some people do “Pet Trust” for money for pet, but it is easy to just give pet and money to friend in Will.

Separate “Organ Donation” forms exist but most do this in other forms or in Drivers License or State ID.



# CHAPTER 2

## TERMS, PROPERTY, AND HELPFUL INFORMATION FORM

### THERE ARE BASIC TERMS AND IDEAS IN WILLS AND ESTATE PLANNING

Some legal terms and ideas are basic to Wills and Estate Planning.

- “Estate Planning” is a person doing legal documents to control things if later they are absent, sick, or dead. After form is signed person is still free to sell or transfer property, instruct doctors, or change forms.
- A person who has died is called “decedent” or “deceased”. People getting gifts like by Will can be called “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” means to be alive after someone dies.
- A “Will” or “will” (this book uses upper case “W”) is legal document done to control issues after death. The phrase “Last Will And Testament” is used since a Testament long ago was a small document done with Will to do some things. If no Will is done it is called being “intestate”. A person doing a Will is called “Testator” or “Will maker”. Long ago a woman Testator was called a “Testatrix” and woman Executor an “Executrix”.
- “Residue Clause” put at end of Will gifts property or money left over to persons named in the clause.
- “Probate” is legal process to do things after death like transfer property, authorize a Guardian, and handle creditors. Due to nice recent changes probate is now often “informal”, faster, and less expensive.
- “Executor” is person named in Will to do things after someone’s death. If no Will does this a judge may appoint an “Administrator” for this job. “Personal Representative” is the blanket term for both these 2.
- A “Guardian of the Person” cares for child under 18 if needed. A “Guardian of the Estate” manages and says how to spend child’s money and property on them till 18 (called a “Conservator” in some states).
- “Agent” (also written “agent” with lower case letter) is title often used for person that works for someone.
- “Property” is either: 1) “real property” which is land and buildings (“real estate”), 2) “personal property” which is things not real property, like cash, accounts, stocks, investments, tools, clothes, cars, jewelry, art, or 3) “fixtures” which are things tied to real property (like fences, posts, lighting, and wired-in appliances).
- A “Power of Attorney” document is done by person (called “Principal”) to give power to someone (called “Agent” or “Attorney-in-Fact”) to do things, but person giving power still has power so really power is shared.
- Forms to control health care are often called “Health Care Directives”, but names vary.
- Georgia state law is the “Official Code of Georgia” which often is in books with notes called “Annotations”. State law is called the “Official Code Of Georgia Annotated” or just “Georgia Code”. Each small law is called a “statute” or “section” represented by “§” symbol. A reference to a law can look like “O. C. G. A §16-12-20”. A legal form written in the law for people to find and use if wanted is called a “statutory form”.

## **“ESTATE” MEANS PROPERTY OF DECEDENT OR ENTITY HOLDING THINGS**

The “Estate” or “probate estate” is all property and money of a person that on death did not somehow automatically transfer to other owners. “Estate” is also the word for a temporary entity run by Executor to do things after a death (sort of like a small corporation). A dead person’s money and accounts might be renamed or moved to a bank account under an Estate name, like “Estate of John Eric Smith”.

## **PROBABLY DO NEW FORMS IF DIVORCE, MARRY, HAVE CHILD, OR MOVE**

Divorcing, marrying, having a new child, or moving to a new state can have big legal effects. If any of these events occur it is recommended people re-do a new Will and other Estate Planning papers soon. To help, most states say a Will from another state is valid and divorce cancels Will gifts to a former spouse.

## **“INTESTATE” LAW SAYS WHERE THINGS GO AT DEATH IF THERE IS NO WILL**

State “intestate law” says where property and money goes if no valid Will was done before person died (except for certain rights of spouses, family, and creditors). Intestacy laws often say half and sometimes all goes to any surviving spouse (if any), then half or any remainder goes to decedent’s children (or if dead their own child gets that share), then next closest family, and then to the state. Many people are happy with intestate law and intentionally die with no Will, but many people do a Will to get the exact distribution wanted and for other reasons. For intestate law a legally adopted child counts but not foster-child or step-child.

## **LEGAL DOCUMENTS MAY NEED TO BE “WITNESSED” OR “NOTARIZED”**

Legal documents to be valid may need to be “witnessed”, which is someone watching person doing form sign and then usually witness signs. Documents may need to be “notarized”, which is having person who is a “notary” (also called “notary public”) see signing and use ink stamp on page and put their notary signature. This book explains for each form if witnesses or notary is needed, and also says who can be witness for form. To find notary willing to help some people look in phonebooks and pay small fee. Notaries are found at some banks, brokers, insurance agents, courts, and government offices but they may only help existing customers.

## **PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH**

A person can only gift by Will things they own at death so people should research what they own.

Basically by law a person usually owns all they earn as wages and salary, owns their share of income and profit tied to property they own, and owns or partly owns any things their money buys or improves. But married people in Community Property law states might face different rules.

For property with “title” documents (real estate or vehicles) or where there is a “listed owner” (like accounts) the named persons are usually the legal owners unless evidence shows special circumstances.

Note, a person during life can sell property, make gifts, or transfer things even if items are named in a Will, so people should consider if they already sold or gave away property they also name in a Will gift.

## THINGS OWNED IN SPECIAL WAYS MAY LIMIT WILL GIFTING

A person should consider if they own real estate or other property in special ways which may limit gifting by Will. Laws vary but some special joint ways are:

- a) “joint tenant with right of survivorship” or similar so then property transfers automatically to the other named owners regardless of a Will, which in some states is often how a family house is held,
- b) a “life estate” where papers say if life of someone ends the other people in papers get a thing, and
- c) “trust property” if paperwork made a Trust entity and property was actually transferred to it, so then the trust papers control where things put in the Trust go on someone’s death.

But normal joint property for the part owned can be gifted by Will, like “I give the half of Boat that I own with Aunt Jo to Ed Fox”. Joint ownership can occur if people do joint papers, agree to own jointly, buy with joint funds, a gift is to multiple persons, or often if married and in Community Law state something is bought.

### **WARNING: “NON-PROBATE PROPERTY” TRANSFERS IGNORE ANY WILL**

Money or property that for some reason automatically transfers on death to other owners is called “non-probate property”, and such things quickly transfer as arranged even if a Will names the same items. Examples are: a) “designated beneficiary” form done earlier names person to get accounts or investments, b) transfer-on-death account, c) real estate like house held by 2 people as “joint tenants with survivorship” or similar so survivor gets things. Property and money in a Trust also ignores a Will and transfers as the trust papers say. Insurance usually ignores a Will. Trying to do non-probate transfers for all things is “avoiding probate”, but it is rare as it may make living and paperwork a hassle for years, benefits are small, and often a thing is missed somehow. When doing a Will a person should consider non-probate transfers that will occur automatically on death and consider what property and money will be left to transfer by Will.

### **USUALLY NO FEDERAL OR GEORGIA TAX IS OWED DUE TO A DEATH**

Usually no tax is owed due to a death, including no estate, inheritance, death, or similar taxes. This is because the “Federal Estate And Gift Tax” only starts when tax credit is used up that covers \$12.92 million per person in 2023 (with yearly rises for inflation). Since 2005 the state of Georgia and all local governments no longer have any estate tax or inheritance taxes that would be owed upon a death. A few different states have estate or inheritance taxes for things there going to people outside their state, but often they have a credit exempting the first \$3 million in value which usually means no tax is owed. Basically, usually only multi-millionaires need to worry about estate or inheritance taxes in Georgia.

### **SOME PEOPLE DO “HELPFUL INFORMATION” FORM**

It is not a real legal form that legally does anything but a person can do a “Helpful Information” form so family or friends after person’s death have more information about property, money, locations, wishes, debts, documents, passwords, tips, and more. Neatness is not needed and often person does a quick draft, and later adds more details maybe on further pages, and maybe prints screenshots of account info to attach. This form is often kept with a Will to at death go to Executor or family. See 2 page form on next pages.

## **ESTATE PLANNING HELPFUL INFORMATION**

Give information to help family, friends, and Executor after your death. If needed attach more forms or blank pages.

1. Personal Information (Name, Birthdate, Social Security #, special family details, other):
2. Real estate, vehicles, and other tangible property of high value (especially if people may not find them):
3. Non-tangible assets like stocks, accounts, investments, loans owed you, and businesses of high value:
4. Possible income or insurance of high value like pensions, retirement, disability, insurance, or contracts:

5. Debts owed by you like credit card, loan, student loan, mortgage, vehicle loan, and accounts payable:

6. Names and contact information of professionals used (attorneys, accountants, brokers, doctors, others):

7. Computer passwords and helpful files, document places, and safes or safe-deposit boxes codes/keys:

8. Other helpful things, wishes for funeral, special requests, and any last messages to family and friends:

## **CHAPTER 3 WILL BASICS**

### **WILL LETS “TESTATOR” AT LEAST AGE 14 CONTROL THINGS AFTER DEATH**

A Will is a legal document done by person to control things after death, like who gets their money and property, who is Executor, who is Guardian for a child, and if faster and cheaper legal options can be used. To do a Will a person must be at least age 14 and when signing be of sound mind (rational with sufficient memory) and not under duress (illegal pressure or threat). A person doing a Will is called a “Will maker” or called the “Testator”. When a person dies they are called the “deceased” or the “decedent”.

### **WILL TO BE VALID USUALLY MUST BE SIGNED WITH 2 WITNESSES**

To be a valid Will it must show it is meant as a Will, it must be written, and person must sign in front of 2 witnesses who sign too. In Georgia a Will must be written on paper in some way including by computer, typewriter, preprinted form, or by hand like by pen or pencil. Verbal promises about actions to occur after death are usually invalid outside a proper Will, and a “Video Will” or “Audio Will” not in writing has no power. Some states but not Georgia let 2 witnesses be skipped if Will is all handwritten (called a “Holographic” Will). A few states let ship crew, military, or people near death do a temporary Oral Will, but this is very rare.

### **WITNESS MUST BE AT LEAST 18 AND USUALLY NOT NAMED IN WILL**

The 2 witnesses to a Will signing can be anyone at least age 14 but preferably not old or living far away. Georgia law says a person getting a Will gift can be a witness but gifts to them are void and canceled which most people don't want. The law says Will gifts to spouse of witness may raise doubts about credibility and truthfulness. To avoid issues most lawyers use “disinterested” witnesses who won't benefit at all from a Will. Though not required most lawyers also try to not use witnesses named as Executor or as Guardian in a Will. Often used as a witness is a friend, employee at some office or business, stranger, or distant family.

### **TESTATOR AND 2 WITNESSES WHEN TOGETHER SIGN WILL**

To do Will a Testator signs, then 2 witnesses usually sign in minutes. Witnesses just read the paragraph they sign and not the whole Will. Everyone should be in 1 room and see hand of each person as they sign. Witnesses showing ID is not required but usual. A testator need not use their full legal name if they dislike it. Testator initialing each Will page is not required. It is not required but some Testators chat 5 minutes with witnesses to show they're of sound mind and not being forced. It is not required in Georgia but some Testators tell witnesses “This is my Will” and hold Will up (some states call this the “publishing” of a Will).

### **KEEP SIGNED WILL IN SAFE PLACE IT CAN BE FOUND AFTER A DEATH**

People should keep Will so it can found within days of death, like in desk, drawer, safe, or less often safe deposit box. It can be given to someone to hold. It may help to tell someone where to find Will and any key. People can file Will early in Probate Court for safekeeping, but if new Will is done an old filed Will is ignored.

## **CANCELING OLD WILLS IS USUALLY NOT A PROBLEM**

So new Will is followed old Wills should be canceled (“revoked”) but this is easy. People can write in new Will that old Wills are revoked and most do this, write “void” or “cancelled” or “X” on old Will, or just rip up or trash old Will. But crossing out parts of a Will has no effect. Revoking a Will doesn’t bring back earlier Wills.

## **WILL USUALLY NAMES AN “EXECUTOR” TO DO THINGS AFTER DEATH**

Normally a Will names person to be “Executor” to do things after a death like transfer property or money, handle debts, and probate. If needed a judge picks someone to do this who is called “Administrator”, and close family have priority but they may argue over this if no Will names a person. “Personal Representative” is term that means both Executor and Administrator. Long ago “Executrix” was used for women Executors. Naming 2 people to both act as Executor is rare due to possible disagreements and delay, and since any 1 person named Executor in a Will should be trusted.

## **EXECUTOR CAN BE PAID AND ESTATE PAYS FOR THINGS**

Many states let Executor ask for pay for hours worked or up to 2% of value of the estate (after debts), and this is usually fair and minor. But pay is often not asked for to avoid income tax and leave more to carry out Will gifts. Money an Executor needs like for probate fees, attorney, or repairs comes from estate assets.

## **EXECUTOR CAN BE ANYONE AT LEAST 18**

In Georgia a person must be 18 or older to be Executor. There is no requirement for an Executor to be a Georgia resident or even a U.S. citizen. A lawyer or bank can be Executor but this is costly and they must be asked and agree. A judge can always remove a person doing a bad job as Executor.

## **“ALTERNATE” EXECUTOR OR GUARDIAN RARELY ADDED TO WILL**

Some Wills have spot to name alternative Executor or Guardian in case first person is unavailable later. To do this just add bit to Will, like “or if they are reasonably unable to serve I nominate \_\_\_ to serve”. This is rarely done since if a person is unavailable (which is rare) a new Will can be done or judge just pick person.

## **MOST WILLS SAY USE LESS COSTLY AND SHORTER “INFORMAL” PROBATE**

Usually the probate process is not too slow or costly. Often over 95% of value gets to wanted persons. To help most Wills also say “use informal probate” which skips some hearings, delay, costs, and paperwork.

## **MOST WILL SAY TO SKIP COSTLY EXECUTOR OR GUARDIAN “BOND”**

Most Wills helpfully say no “bond” or “surety” is required for an Executor or Guardian. This is insurance bought from some insurance company to insure against misconduct. But the person doing a Will usually does not want this since any person named is trusted and this insurance uses up estate assets.

## **WILLS HAVE “MISCELLANEOUS” PART TO HELP WITH RARE PROBLEMS**

Most Wills have a “Miscellaneous” part with many paragraphs of complex legal language to help solve some legal issues that occur in a few cases. This book’s Wills have a half page of this helpful language.

# CHAPTER 4

## WILL GIFTS INCLUDING RESIDUE

### MAIN USE OF WILL IS TO SAY GIFTS TO HAPPEN AFTER DEATH

Most people use Will to say gifts of property and money they want to happen after death. Verbal or even most written statements about this are not usually valid outside a Will, except for some exceptions. A Will can say what happens to property acquired after it was signed. Note, some families if all agree may try to informally hand out small items decedent said or wrote in note they wanted to gift, but this is not fully proper.

### GIFTING IN WILL USING SIMPLE WORDS OFTEN IS BEST

Making gifts in a Will using simple words is often best, using words like “I give to” and “I gift to”. This is legally fine and avoids confusing legal words like “bequest”, “devise”, or “legacy” which few people know.

### PERSON IS MOSTLY FREE TO GIFT THEIR THINGS AS WANTED

People are mostly free to give at death their money and property as they want, like give a child nothing, give all to a charity, or give all to a distant friend. This book explains later some rights a spouse may have.

### IN WILL CAN DO “SPECIFIC GIFTS” TO GIFT PARTICULAR PROPERTY

Most Wills have “specific gifts” to gift particular things. Specific gifts can be any property, like “I give boat to Ed Poe” and “I give UBank account #845534873 to Sue Wu”. If a gift is not clear the law assumes all of a kind of thing is given, like “I give jewelry to Ann Po” means all jewelry. But giving specific property can have surprises like value of an item can greatly change or a gift may fail if property is no longer owned.

### IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY

Wills can do “general gifts” where what is gifted is not particular property but can be flexibly chosen, like “I give 1 of my 3 cars to Ed Po” which lets an Executor pick which car. The usual general gift is money, like “I give \$5 to Ed Vu”. Money gifts are easy to write, let equal gifts be made, and are safer since specific items might have been sold. To carry out money gifts an Executor uses accounts or sells some property.

### “RESIDUE CLAUSE” IS CATCH-ALL THAT HELPFULLY GIFTS ANYTHING LEFT

Most Wills by their end have a Residue Clause to gift property or money not gifted or used in Will or other way, sometimes called a “catch-all” or “left-over” clause. The Residue Clause is covered end of this Chapter.

### PERSON IN WILL GIFT USUALLY MUST SURVIVE OR GIFT DOES NOT OCCUR

Many Wills like this book’s Wills say person in Will gift must survive (live past) Testator for gift to occur unless gift language says otherwise. Also, basic law usually says gifts to deceased persons have no effect. If survival is not clearly required what occurs if a named recipient is dead can be unclear (due to complex laws like “anti-lapse” laws). If a gift fails due to non-survival a Residue Clause usually then handles things. People doing Will should consider how Will gifts to people dying before Testator will usually have no effect. Many people if they see someone in a Will gift has died just re-do Will with new name to get the gift.



## **SOME PEOPLE ADD “ALTERNATE BENEFICIARY” MAYBE FOR SPECIAL ITEMS**

A person named in a Will gift dying before Testator is rare, and if seen most people just re-do Will to add new name or let Residue Clause in Will handle it. But some people to prepare for this rare event maybe for special items write in an alternate beneficiary, like “I give Boat to Ed Wu but if they don’t survive to Ben Fox”.

## **CAN SAY IF RECIPIENT HAS DIED GIFT GOES TO “LINEAL DESCENDANTS”**

A Will gift may say gift goes to person but if they don’t survive to their “lineal descendants per stirpes”. Descendants are person’s children and grandchildren. “Per stirpes” is about “how” to spread things and means “by root” or “by branch”, and basically divides things so each family branch gets equal share. A family branch that died off with none left is ignored. Most Wills use “lineal descendants” language in a Residue Clause, and it can be put in other gifts if wanted. An example shows how it works:

If Will says “**Residue to Sue Wu but if they don’t survive to lineal descendants per stirpes**” this means if Sue Wu died and a son Ken Wu is living and a son Ben Wu has died but left 2 children, then Ken Wu will get 50% and Ben’s 2 children each get 25%.

## **PROPERTY OR MONEY IN JOINT GIFT GOES TO MULTIPLE PEOPLE**

The same property or money in “joint gift” can go to multiple people to each own a part interest, like “I give boat and all hats to Ann Smith and Sue Kimble” means each person owns 50% of every single item. Later people can agree how to split jointly owned things, an Executor can decide, or a sale can be held. If person in joint gift has died their part of gift usually doesn’t occur so that part transfers by Residue Clause.

## **GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE**

If Will gift goes to several people the law assumes equal shares, but if wanted percentages can be put, like “I give boat 91% to Ed Wu and 9% to Jo Po”. Often a Will Residue Clause is gifted using percentages.

## **CONDITIONS ON GIFTS ARE RARE DUE TO HUGE PROBLEMS**

Putting conditions on gifts, like “to get \$90 Ann Smith must diet 1 year”, can cause big problems like years of delay, extra legal work, and large attorneys fees. Conditions are rarely put on gifts.

## **HELPFUL LAWS OFTEN REQUIRE PERSON SURVIVE 120 HOURS TO GET GIFT**

State laws often say person dying within 120 hours of someone is deemed to have not survived them for Will gifts or similar, and a Will need not say this itself. This avoids having to know exact time people died if close like in 1 accident, and avoids item going from 1 person to 2nd person who might quickly die and needs probate before item can go to final 3rd person.

## **CAN LEAVE PARTS OF WILL BLANK OR WRITE THINGS LIKE “SKIPPED”**

A person can skip Will parts by leaving them blank, writing things like “SKIPPED” or “NONE”, or using a computer to delete gift clauses. Judges and others do not care about neatness or empty spaces in Wills.

## **MUST SUFFICIENTLY DESCRIBE PROPERTY AND NAMES IN WILL**

### **NAMES IN WILL GIFTS IS FAIRLY EASY**

Names in Will gifts just must be detailed enough so people who knew decedent can tell who likely was meant and explain if asked. Gifts to family often just use first and last name, and part names and nicknames are often fine. Detail can be added if confusion is likely, for example “maid Sue Smith” or “golf pal Ed Wu”. It is assumed a person gifts to people they know, so it’s OK to use common names unless 2 friends or family have same name. Names are not needed if confusion won’t occur, like fine is “I give \$5 to each of my sons”. To avoid confusion some add “also known as” or “a/k/a” like “I give boat to John Kent a/k/a Lucky Kent”.

### **NAMING GROUP OR CHARITY IN WILL GIFT IS FAIRLY EASY**

Charity, company, or other group can get a Will gift, but it can’t be a totally unofficial group which filed no official papers. It must be described in Will so people who knew decedent can tell what likely was meant, like probably fine is “Smith Food Shelf in Kent, Georgia”. People often just phone to ask for charity’s name to put in Will. A government like city or agency can get a Will gift, like “I give \$5 to Atlanta city library” or “I give \$5 to City of Pine, GA”. Will gifts face no income tax so there is no tax benefit in gifts to a charity.

### **DESCRIPTIONS OF PROPERTY IN WILL GIFTS IS FAIRLY EASY**

Gifted property just must be described so people who knew decedent can explain what likely was meant if asked. This is usually easy as people rarely own similar items, so probably fine is “I give boat to Ed Mo” and “I give wood table to Sue Ax”. It’s usually fine to gift by category or list (like “tools” and “blue hat, kites, and Irish cup”). Financial assets can use simple words, like “Wells Fargo accounts” or “stocks”, but details can help, like “Fidelity account ending #1511”. But using item location in a Will gift is risky as judges may will ask if putting items places was done to affect gifting and not “independent significant” real life reason. For example, “I give items in desk” or “I give all in wall safe” seems items were put places not for life reason so judge might ignore such Will gifts - - but “I give porch furniture” and “I give hats at cabin” probably is fine.

### **DESCRIBING REAL PROPERTY IS HARDER SO OFTEN USE RESIDUE OR TITLE**

Doing Will gifts of real property by street address or plain words is often fine, like “I give 28 Ivy Street, Fox, GA to Su Wu” or “I give cabin in Lee County, GA to Ed Po”. Such gifts do by law include all buildings and fixtures there and nearby land not separated by roads, but not other land. A “legal description” is maybe best but long (like “Lot 11, Block 8 of Po’s Addition to Hud, GA according to plat in land office in Lee Co.”). To make it easier many people use the Residue Clause to gift real property, or put 2nd person on land title.

### **SIMPLE WILL IS OFTEN BEST AND PEOPLE MOSTLY GIFT BY RESIDUE CLAUSE**

People may consider doing complex and detailed Will but simple Will is often best leaving parts blank.

If there is a spouse often people do a few small gifts to friends and other family, then use Residue Clause of Will to gift spouse the Residue, and then name a few fallback persons in the Residue Clause.

If there is no spouse often people do a few small gifts, then name some family or friends to get Residue.

A parent with young children if married to other parent often gifts Residue to them, and as fallback gifts the Residue to the children. Or if not married a parent mostly gift to children in the Residue clause.

# RESIDUE CLAUSE

## “RESIDUE CLAUSE” IS CATCH-ALL THAT HELPS GIFT ANYTHING LEFT

Wills by their end have a Residue Clause to gift property or money not gifted earlier in Will or used in other ways to persons named in clause. Property and money that transfers this way is called the “Residue”. Many people do most their gifting this way as it skips need to describe things and has far less legal risk. If after applying a Residue Clause anything is left (which happens in rare cases) then closest “heirs” get things which is closest family like child, parent, brother/sister, grandparent, aunt/uncle, and cousins. People can gift in Will the Residue to multiple people by percentages, which should add to 100%.

## USUAL RESIDUE CLAUSE HAS 2 PARTS

A short 2 part Residue Clause is usual and is used in this book’s Wills, and it has:

- 1) 1st space to name 1 or more persons to get things if they survive Testator (many name a spouse or closest family here), and if several people are named but only some survive then survivors get things, and
- 2) 2nd space to name persons to get things if all in 1st space don’t survive (so these are fallbacks) (many name next family or friends here), and if a person in 2nd space died their descendants get their share.

### EXAMPLE OF 2 PART RESIDUE CLAUSE:

**“RESIDUE CLAUSE: I give money and property not gifted earlier:**

**A) to my husband John Paul Doe if they survive me, then**

**B) to Sam Doe my son, Beth Wu my daughter, and Greta Fisher my friend and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.”**

In this example if John Paul Doe has survived then he gets things. But if John Paul Doe hasn’t survived and also Sam Doe hasn’t survived and he left 2 daughters, then those 2 daughters split the 1/3 share of Sam Doe so get 1/6 each and other 2 persons in second part Beth Wu and Greta Fisher get 1/3 each.

## SOME PEOPLE RE-WRITE RESIDUE CLAUSE TO HAVE 1 PART

A normal Residue Clause of 2 parts is often fine, and basically person put in 1st part usually gets things. A small fraction of people may want to do a “Simple Residue Clause” which has a clause of 1 part to gift to a group more equally. If person named in this new Residue Clause has died their descendants get their part. People with no spouse and no children are likelier to do this change, but even they often don’t bother and just use this book’s Will forms as is. See Example below for exact words to use if people want this change.

### EXAMPLE OF SIMPLE RESIDUE CLAUSE:

**“RESIDUE CLAUSE: The rest, residue, and remainder of my estate, property of any kind and nature, and anything I have an interest in, I give to Adam Doe and Beth Wu who survive me, and to lineal descendants per stirpes of any person just named who did not survive me.”**

In this example if Adam hasn’t survived but had 2 children they each get 25%, and if Beth Wu survived she gets 50%. Or if Beth Wu also hadn’t survived and had 5 kids they split her part and each gets 10%.

# CHAPTER 5

## DEBT, MARRIAGE, AND YOUNG CHILD ISSUES

### DEBT, MARRIAGE, AND YOUNG CHILD CAN CAUSE ISSUES

This Chapter deals with debt issues, marriage issues, and young child issues. People can skip the parts of this Chapter they think will not apply to them.

### DEBT ISSUES

#### PAYING DECEDENT'S DEBTS MAY USE UP RESOURCES AND REDUCE GIFTS

Creditors owed by decedent can ask judge to be paid from decedent's money and property before Will gifts are carried out. But if decedent had under about \$50,000 of money and property plus a house any creditors often don't bother people, for reasons said below. Resources to pay debts first come from things in Will Residue, then Will general gifts like of money, and then Will specific gifts. Some debts like for probate, attorney, funeral, and health care have priority to be paid first. Helpfully a spouse and family aren't usually personally liable to pay decedent's debts for non-necessities unless they guaranteed or co-signed. People should consider how paying debts may use up money or property leaving less to carry out Will gifts.

#### BEFORE DEBTS ARE PAID MAY COME SOME FAMILY RIGHTS

Most states say spouse or minor children have "family rights" they can claim before debts are paid, which can help family get something even if decedent had big debts. Many states say family may claim "year living allowance", a small share of decedent's things as "exempt property", and other rights. Family rights use up money and property so if used less may be left to do Will gifts. Creditors know of family rights so often don't bother to seek payment if told decedent had little wealth, and if their phone calls are ignored by family. Georgia is bit unique and only has "Year's Support" as family right, but this might be calculated as full yearly income of dead spouse a surviving spouse can claim of money and property, leaving little for creditors. People can research their state.

#### "HOMESTEAD EXEMPTION" MAY PROTECT HOME FOR FAMILY FROM DEBTS

"Homestead" laws in some states say decedent's creditors can't seek payment by foreclosing and selling decedent's house if decedent's spouse or children under 18 are there (unless equity is big, like \$200,000). Also, homestead laws often say spouse or minor children get ownership of decedent's house (or a right to occupy it for their life in some states) if decedent owned it and despite a Will gift giving it to other people. Georgia is unusual without these protections but often a spouse and/or minor child can live in house while probate occurs or reasonable period of time which can be year or more. Due to all these factors and to help their family most people give spouse or if no spouse minor children a house by Will or putting them on title. Of course a normal mortgage later can be foreclosed if not paid monthly. People can research their state.

#### USUALLY SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN NOT PAID OFF

Most state laws say secured debts like house mortgage or car lien are not paid off after death but remain even if Will says generally to pay debts. This book's Wills clearly say don't pay secured debts unless person writes in Will to do so. This avoids using up much money and property so little is left to carry out Will gifts.

If person doing Will wants to pay off secured debts a) they can in Will give person enough cash to pay them, or b) write order to pay in Will (like "I order mortgage on cabin paid off"). People who get gift of house, car, or any items with lien or mortgage must usually pay monthly payments to avoid foreclosure or repossession.

## MARRIAGE ISSUES

### **MOST STATES USE "SEPARATE PROPERTY LAW" FOR SPOUSES**

Most states including Georgia use "Separate Property" law saying married person mostly owns money and property separately, and usually owns their own income, profits, and accounts and property in their name. Due to this a spouse is mostly free to sell during life their things, or gift in their Will their things even acting alone without their spouse. But joint ownership by 2 spouses can arise by normal ways (like by agreement, paying half a purchase price, and also many spouses do paperwork to own a house jointly).

### **"COMMUNITY PROPERTY" LAW APPLIES IN OTHER STATES FOR SPOUSES**

There are 9 states mostly in West and South U.S.A. that use "Community Property" law for spouses. This says if a married person lives in these states most property or money gotten is usually owned 50/50 by spouses as "Community Property" if it relates to activities during a marriage (like from labor or wages, or active management of a small business) or if bought or improved with other Community Property. Community Property law states are Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin. Most people avoid these issues unless moving to or from these states.

### **"JOINT WILL" SIGNED BY BOTH SPOUSES IS NOT RECOMMENDED**

Some couples sign 1 "Joint Will" written by a lawyer saying spouses gives all to the other if they die first, then saying last living spouse gives to all children equally, and usually it says a spouse may not change this. Joint Wills are not recommended and banned in some states and most people dislike their restrictions. Similar is a "Contract To Make Will" done by lawyer that can force people to do Will and not change it.

### **SPOUSE CAN SEEK "ELECTIVE SHARE" IN SOME STATES**

Many states for fairness and to ensure surviving spouse has enough to live on give spouse if unhappy with what Will gifts them a right to choose (elect) an "Elective Share" of their spouse's property and money. Many states say an Elective Share is 20% rising to 50% with length of marriage. But Georgia is unique in not having an Elective Share. Georgia does give spouse right to "Year's Support" which to be fair is often calculated generously and can be full annual salary of the dead spouse. Also, any promises or contracts spouses may have said may be enforceable, like "take care of me in my illness and you'll be taken care of". Because of all this often a married person gifts by Will and other ways mostly to a spouse (like at least 50% and family house) to avoid a spouse being upset and hiring lawyer to try to sue to get more.

## YOUNG CHILD ISSUES

### WILL CAN NAME “GUARDIAN OF THE PERSON” TO CARE FOR CHILD

If a parent dies with minor child under 18 the other natural or adopted parent (but not step-parent) then automatically takes over daily care unless they are unavailable or proven unfit in court which is very rare. This includes power over daily care, school, and health care. But just in case needed a Will can name someone as “Guardian of the Person” to do these things for child. Since naming other parent is pointless (they take over if fit and available) most Wills name as Guardian of the Person a healthy friend or relative over age 18 just in case other parent is later unavailable or proven unfit. If no Will picks a person then family can have judge say who is best for this with close family usually chosen, but this can lead to arguments. If both parents die preference of last living parent has more weight. Naming 2 persons to both serve is rare since they may argue and any 1 person named should be trusted, but some people name a married couple.

### CAN NAME “CONSERVATOR” TO MANAGE ASSETS OF CHILD

A child until 18 legally can't easily manage money or property, so in a Will a person can be named as “Conservator” for rare case child gets property or money (some states use term “Guardian of the Estate”). This person manages money and property of child and decides what school, health care, and living costs to pay for them till age 18 when anything left is handed over to the child. Less formal options exist to do things but a Conservator must control things if a child gets over \$15,000 of value (\$25,000 in some cases). Since often 1 parent will be still alive most people in Will name other parent as Conservator. This is since the other parent will know what spending is best and may argue with anyone else, but a different person can be named if the other parent is unstable or bad with money. If no Will names someone or if they're unavailable (which is rare) close family can have judge pick person but this can cause family arguments. Naming 2 persons to both serve is rare as the 2 may argue and any 1 person named should be trusted, but some parents do name a stable married couple. Any person giving child a home or any necessities including a Guardian can ask to be paid back from child's money and property. Judges often hold a yearly hearing looking for misuse by the Conservator which can help stop problems but causes some work.

### ANY GUARDIAN SHOULD BE AT LEAST 18

A person should be at least 18 to be Guardian of the Person or be Conservator. They need not be an Georgia resident living here if named by parent in Will or other writing, but being nearby can be helpful.

### PICKING GUARDIANS RARELY MATTERS DESPITE PARENTS WORRYING

Parents of a minor child may worry but naming guardians or similar rarely matters so parents should not spend much time on this issue. A study shows just 0.2% of children under 19 had 2 parents die to leave child parentless and likely to need a guardian. See *Socioeconomic Parent Mortality, Census Bureau 288.* As said above if 1 parent dies usually the other parent is living and takes over daily care, and usually this other parent is also named Conservator to handle finances, so often what happens if 1 parent dies is clear. It is also rare for young child to get property or money, and the other parent left to raise the family usually is given everything. And if later surprises happen a judge always has power to act to help a child.

# CHAPTER 6

## BASIC IDEAS ABOUT HEALTH CARE FORMS

### SOME BASIC IDEAS HELP USE HEALTH CARE FORMS

■ By law people control their health care unless “incapacitated” by inability to a) communicate verbally or by notes, b) be rational, or c) be conscious. Unless incapacitated people just tell doctor their wishes, or maybe family or friend is made Agent to help do this. Most people keep control of health care till death or till no big options remain, but people worry so do health care forms which mostly only matter if person is incapacitated.

■ Parents do have power over health care of child under 18. If an older person becomes incapacitated the closest family like spouse or adult child can make emergency decisions but they usually must then rush to a judge to get further power if no form names them Agent for health care.

■ In forms a person can name an “Agent” to take control later if needed or help make decisions, and naming an Agent (often spouse or adult child) can avoid family later having to rush to get power from judge.

■ In forms people can give written instructions doctors, family, and any Agent must obey, but many skip this as hard to write and it may cause delay and legal issues. People can give instructions but skip an Agent.

■ **Young people** often skip health care forms since they rarely are very ill. But some **married people** do a form to name spouse as Agent. **People 19-25** sometimes do form to name parents as Agents.

■ **Older people** over 40 often do form naming Agent but many skip instructions to not limit the freedom of their agent, but people with strong wishes might write instructions carefully maybe with a doctor’s help.

■ Most people do fairly long health care form with spot to name an Agent just in case this is needed, and spot for instructions. Names for the form vary. Other forms are usually only done by oldest or sickest people

■ Pain relief like pain drugs and comfort care is usually given even if forms say to stop or limit other care.

■ For rare cases a person likely will be a) incapacitated and unable to directly control health care, and b) be in very bad health with poor quality of life and little chance more medical care will help:

-- most people do nothing special and trust family or Agent to decide on stopping care based on changing complex factors like pain, cost, hassle, suffering and time of treatment, beliefs, and chances of recovery;

-- a few people do a serious legal document or put instructions in more plain document to block health care if **later** doctors see person has irrevocable terminal condition and see further medical care likely won’t help (this action is often called doing a “Living Will” even if the form used is not titled this);

-- a few people do a serious legal document to starting immediately block health care listed, often called “Do-Not-Resuscitate” if short and only about C.P.R., and called “Physician’s Order” or similar if covering more.

# **CHAPTER 7**

## **FORM 1: LAST WILL AND TESTAMENT (STANDARD)**

### **FORM 1 IS A STANDARD WILL THAT IS FLEXIBLE WITH NO GUARDIANS**

Form 1 is a standard Will that is flexible and is the Will form most people use. It has no part about Guardians so is usually for person with no child under age 18.

### **FORM 1 IS WILL WITH SEVERAL PARTS**

The Will at its start has place for person doing the Will (Testator) to write their name and county.

The 1st paragraph, "Gifts", has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

The 2nd paragraph, "Gifts Of Tangible Personal Property By Separate Writings", says to follow separate writings done apart from the Will that gifts tangible personal property.

The 3rd paragraph, "Residue", has a Residue Clause to gift property and money left after other Will parts and any other transfers to those persons named in the clause.

The 4th paragraph, "Administration", has space to name an "Executor" to handle legal and other matters after death.

The 5th paragraph, "Miscellaneous", has sentences of legal language to help avoid certain legal issues.

Last is a paragraph for person doing Will to date and sign, and 2 witnesses to sign and give addresses.

### **USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS**

In a Will "Residue Clause" anything left after other Will parts is gifted to persons who are named here. Many people use a Residue Clause to gift most things. In this Will form's Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have not survived and died before the Will maker then any other persons named here take their share,
- 2) a 2nd space to name people to get things if all in 1st space died before Will maker, and if any people named here didn't survive their shares go to "lineal descendants" like their children.

Most people name in 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complicated but usually those in 1st area of Residue Clause get things.

### **TESTATOR SIGNS WILL AND 2 WITNESSES SIGN**

A Will after being filled out by computer or by hand in pen or pencil (except bits intentionally left blank) then must be signed by person doing Will ("Testator") before 2 witnesses at least age 14 who sign too.

It is usually best to use witnesses not getting gifts in Will and not named Executor or Guardian in the Will. For signing use pen or marker with permanent ink not pencil, and Testator and 2 witnesses should be in same room and see each other sign. Witnesses only read the 1 paragraph they sign and not the full Will. The Testator doing the Will need not say or do anything other than sign the Will in front of witnesses.



# LAST WILL AND TESTAMENT

I, \_\_\_\_\_, of \_\_\_\_\_ County, Georgia, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this to be my Will. When doing this I am of sound mind and under no duress or undue influence.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. GIFTS OF TANGIBLE PERSONAL PROPERTY BY SEPARATE WRITINGS.**

I may gift tangible personal property by writings separate from a Will as allowed by state law including Georgia Code § 53-4-5. Any such writing not found within 90 days of my death shall be canceled and of no effect. Any such writing existing when this Will is done is not revoked or canceled unless some part of this Will specifically says this.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to \_\_\_\_\_ who survive me with persons just named who survive me taking the share of non-survivors, then

b) to \_\_\_\_\_ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

**4. ADMINISTRATION.** I name and appoint \_\_\_\_\_ as Executor including for me, my Will, and my estate.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

If gift or gift section mentions survival, survive, or surviving then survival is an absolute condition and anti-lapse laws or similar have no effect.

Any failure to make gifts to family including children is intentional and not a mistake.

No gift or transfer made during life reduces or offsets a Will gift unless during my life I expressly called it a “loan” or “advancement”.

Use of particular gender shall include other genders, reference to singular or plural shall be interchangeable, and “they” may be singular or plural.

If context permits the terms Executor, Personal Representative, and Administrator shall be seen as interchangeable as if all were written, and if context permits Conservator is interchangeable with Guardian of Property and Guardian of the Estate.

An Executor may anytime pay or settle claims or debts they in their sole discretion find proper or helpful to pay, but I specifically say any secured debts including mortgages or liens on real property or vehicles should not be paid off unless parts of this Will specify it.

I give any person named or acting as Executor the fullest power and discretion allowed by state law, and I grant them all powers that may be conferred on Executors by Georgia law including Georgia Code §§ 53-12-261 and 263 et seq., as amended.

Any person named or acting as Executor shall not be required to render and file annual accountings with respect to property or money including in relation to my Will or estate.

I authorize informal probate of my estate and Will and also administrative probate if any Executor chooses, and any Executor may act independently in all ways.

I give any Executor authority to lease, sell, mortgage, convey, or retain property of mine

in such manner and at such time they deem in the best interest, helpful, or proper.

The residue includes lapsed or failed gifts, insurance paid to estate, inheritances owed me, and property I had a power of appointment or testamentary disposition over.

If in Georgia or other place a Conservator, Personal Representative, Administrator, Guardian of the Estate, any other fiduciary is needed for a child of mine or their estate or property, or for any other person, then I appoint for that the person named Executor above.

Any Executor, Guardian, Personal Representative, Conservator, Administrator, or fiduciary under this Will or otherwise, shall qualify and serve without bond, security, surety, or similar, including despite place of residence or lack of ties to a state or country.

This Will does not revoke a Living Will or any legal document concerning health care.

**TESTATOR**

IN WITNESS WHEREOF, I, \_\_\_\_\_, sign, publish, and declare this instrument as my Will, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the witnesses, and we do now sign our names in this document below as witnesses at the request and in the presence of the Testator and presence of each other on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

# CHAPTER 8

## FORM 2: LAST WILL AND TESTAMENT (GUARDIANS)

### FORM 2 IS BASIC WILL WITH GUARDIANS CLAUSE FOR THOSE NEEDING THIS

Form 2 is a Will with Guardians clause for people with child under 18 or caring for incapacitated person.

### FORM 2 IS WILL WITH SEVERAL PARTS

The Will at its start has place for person doing the Will (Testator) to write their name and county.

The 1st paragraph, "Gifts", has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

The 2nd paragraph, "Gifts Of Tangible Personal Property By Separate Writings", says to follow separate writings done apart from the Will that gifts tangible personal property.

The 3rd paragraph, "Residue", has a Residue Clause to gift property and money left after other Will parts and any other transfers to those persons named in the clause.

The 4th paragraph, "Administration", has space to name an "Executor" to handle legal and other matters after death.

The 5th paragraph, "Guardians", lets "Guardian of the Person" be named to care for child or similar person if needed, and "Conservator" be named to manage such persons property and money if needed.

The 6th paragraph, "Miscellaneous", has sentences of legal language to help avoid certain legal issues.

Last is a paragraph for person doing Will to date and sign, and 2 witnesses to sign and give addresses.

### USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will "Residue Clause" anything left after other Will parts is gifted to persons who are named here.

Many people use a Residue Clause to gift most things. In this Will form's Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have not survived and died before the Will maker then any other persons named here take their share,
- 2) a 2nd space to name people to get things if all in 1st space died before Will maker, and if any people named here didn't survive their shares go to "lineal descendants" like their children.

Most people name in 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complicated but usually those in 1st area of Residue Clause get things.

### TESTATOR SIGNS WILL AND 2 WITNESSES SIGN

A Will after being filled out by computer or by hand in pen or pencil (except bits intentionally left blank) then should be signed by person doing Will ("Testator") before 2 witnesses at least age 14 who sign too.

It is usually best to use witnesses not getting gifts in Will and not named Executor or Guardian in the Will.

For signing use pen or marker with permanent ink not pencil, and Testator and 2 witnesses should be in same room and see each other sign. Witnesses only read the 1 paragraph they sign and not the full Will.

The Testator doing the Will need not say or do anything other than sign the Will in front of witnesses.

# LAST WILL AND TESTAMENT

I, \_\_\_\_\_, of \_\_\_\_\_ County, Georgia, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this to be my Will. When doing this I am of sound mind and under no duress or undue influence.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. GIFTS OF TANGIBLE PERSONAL PROPERTY BY SEPARATE WRITINGS.**

I may gift tangible personal property by writings separate from a Will as allowed by state law including Georgia Code § 53-4-5. Any such writing not found within 90 days of my death shall be canceled and of no effect. Any such writing existing when this Will is done is not revoked or canceled unless some part of this Will specifically says this.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to \_\_\_\_\_ who survive me with persons just named who survive me taking the share of non-survivors, then

b) to \_\_\_\_\_ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

**4. ADMINISTRATION.** I name and appoint \_\_\_\_\_ as Executor including for me, my Will, and my estate.

**5. GUARDIANS.** I name and nominate \_\_\_\_\_ as Guardian of the Person of any minor child or infant of mine or other person without full legal capacity. I also name and nominate \_\_\_\_\_ as Conservator of any minor child or infant of mine or other person including ward needing this or without full legal capacity, and this person I name should be guardian for their property, money, estate, assets, and for the ward.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

If gift or gift section mentions survival, survive, or surviving then survival is an absolute condition and anti-lapse laws or similar have no effect.

Any failure to make gifts to family including children is intentional and not a mistake.

No gift or transfer made during life reduces or offsets a Will gift unless during my life I expressly called it a “loan” or “advancement”.

Use of particular gender shall include other genders, reference to singular or plural shall be interchangeable, and “they” may be singular or plural.

If context permits the terms Executor, Personal Representative, and Administrator shall be seen as interchangeable as if all were written, and if context permits Conservator is interchangeable with Guardian of Property and Guardian of the Estate.

An Executor may anytime pay or settle claims or debts they in their sole discretion find proper or helpful to pay, but I specifically say any secured debts including mortgages or liens on real property or vehicles should not be paid off unless parts of this Will specify it.

I give any person named or acting as Executor the fullest power and discretion allowed

by state law, and I grant them all powers that may be conferred on Executors by Georgia law including Georgia Code §§ 53-12-261 and 263 et seq., as amended.

Any person named or acting as Executor shall not be required to render and file annual accountings with respect to property or money including in relation to my Will or estate.

I authorize informal probate of my estate and Will and also administrative probate if any Executor chooses, and any Executor may act independently in all ways.

I give any Executor authority to lease, sell, mortgage, convey, or retain property of mine in such manner and at such time they deem in the best interest, helpful, or proper.

The residue includes lapsed or failed gifts, insurance paid to estate, inheritances owed me, and property I had a power of appointment or testamentary disposition over.

If in Georgia or other place a Conservator, Personal Representative, Administrator, Guardian of the Estate, any other fiduciary is needed for a child of mine or their estate or property, or for any other person, then I appoint for that the person named Executor above.

Any Executor, Guardian, Personal Representative, Conservator, Administrator, or fiduciary under this Will or otherwise, shall qualify and serve without bond, security, surety, or similar, including despite place of residence or lack of ties to a state or country.

This Will does not revoke a Living Will or any legal document concerning health care.

**TESTATOR**

IN WITNESS WHEREOF, I, \_\_\_\_\_, sign, publish, and declare this instrument as my Will, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the witnesses, and we do now sign our names in this document below as witnesses at the request and in the presence of the Testator and presence of each other on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

# CHAPTER 9

## FORM 3: SELF-PROVING AFFIDAVIT

### **FORM CAN BE DONE TO SUPPORT A WILL**

The “Self-Proving Affidavit” form can be done with a Will to reduce later legal work but this form is optional and is not needed to have a valid Will. This is a statutory form found in Georgia law.

### **FORM SAVES LATER WORK OF SHOWING WILL WAS PROPERLY SIGNED**

People who signed the Will can also sign a Self-Proving Affidavit form in front of a notary, and this helps to later when trying to use a Will “prove” it was properly signed by Testator and 2 witnesses. If this form is not done after death work may be required to get testimony of 2 witnesses to Will signing, someone familiar with people’s signatures, or handwriting expert. If this form is not done there is bit more risk a Will is not followed later. But of people doing Wills about half skip doing a Self-Proving Affidavit mostly due to hassle of finding notary on top of 2 witnesses each time a Will is done, and since it just saves a little later work after a death of people likely happy to do some work to get things under the Will. Some states have no Self-Proving Affidavit form and manage to do fine without it.

### **FORM IS DONE BY TESTATOR AND 2 WITNESSES SIGNING BEFORE NOTARY**

For Self-Proving Affidavit form a notary (also called “notary public”) must see Testator and 2 witnesses sign form, and then notary signs and often stamps form (they “notarize” it). Some officials can also do this. A notary can be found and asked to help at banks, insurance agents, some government offices, libraries, courts, or by looking in phonebook, and they tend to help existing customers or people who pay small fee. The form is often done within minutes of when Will is signed, but it also can be done anytime later (even many months later) when Testator and 2 witnesses can all meet with notary to do a Self-Proving Affidavit. Once done the Self-Proving Affidavit is often kept with the Will it supports.



# SELF-PROVING AFFIDAVIT

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_ (testator) , \_\_\_\_\_ (witness) , and \_\_\_\_\_ (witness), known to me to be the testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said individuals being by me duly sworn, \_\_\_\_\_, testator, declared to me and to the witnesses in my presence that said instrument is the last will and testament or a codicil to the last will and testament of the testator and that the testator had willingly made and executed it as a free act and deed for the purposes expressed therein. The witnesses, each on oath, stated to me in the presence and hearing of the testator that the testator had declared to them that the instrument is the testator's last will and testament or a codicil to the testator's last will and testament and that the testator executed the instrument as such and wished each of them to sign it as a witness; and under oath each witness stated further that the witness had signed the same as witness in the presence of the testator and at the testator's request; that the testator was 14 years of age or over and of sound mind; and that each of the witnesses was then at least 14 years of age.

\_\_\_\_\_  
Testator

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Sworn to and subscribed before me by \_\_\_\_\_, testator, and  
sworn to and subscribed before me by \_\_\_\_\_ and  
\_\_\_\_\_, witnesses, this \_\_\_ day of \_\_\_\_\_, 20 \_\_.

[NOTARY SEAL OR STAMP]

\_\_\_\_\_  
Notary Public

# CHAPTER 10

## FORM 4: TANGIBLE PERSONAL PROPERTY LIST

### FORM LETS GIFTS OF NORMAL PROPERTY BE EASILY MADE AFTER WILL

Form lets people after or before Will is done easily write out gifts of property to occur after their death, but as explained below this is limited to “tangible personal property”. These lists are often called a “Memo”, “Memorandum”, or “Gift List”. Georgia changed its law in 2021 to allow these lists and be like other states.

### FORM GIVES EASY QUICK WAY TO WRITE GIFTS

The List form lets person before or after Will has been done write out gifts of property to occur after their death without hassle of doing a new Will. For Lists to be used a valid Will must say can be used, and this book’s Wills say this. This book’s Wills also say any existing Lists are not revoked by a Will. If List and Will gift the same item then the Will is followed. People can do many List pages over time and all can count. If multiple Lists gift the same item the more recently done List controls. People can change Lists by crossing out, erasing, or adding words, but then should put new date and signature at bottom. To avoid uncertainty and delay a List not found within 90 days of death is ignored. People to cancel a List can rip it, throw it out, or mark it like with “X” or “void”. It may help to [see the Georgia law on these Lists](#), which says:

**“Section 53-4-5 - Written statement or list disposing of items of tangible personal property**

(a) A written statement or list meeting the requirements of subsection (b) of this Code section shall dispose of items of tangible personal property, other than money, not otherwise specifically disposed of by the testator's will. If more than one otherwise effective writing exists, then, to the extent of any conflict among the writings, the provisions of a more recent writing revoke the inconsistent provisions of each prior writing.

(b) A written statement or list meets the requirements of this subsection if such writing:

- (1) Is signed and dated by the testator;
- (2) Describes the items and the beneficiaries with reasonable certainty; and
- (3) Is referred to in the testator's will.

The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation, provided that it is signed and dated on the date of such alteration; and it may be a writing that has no significance apart from its effect on the dispositions made by the will.”

### CAN ONLY GIFT “TANGIBLE PERSONAL PROPERTY”

The List form can gift only “tangible personal property” so tangible (touchable) things (not accounts or most investments) and not “real property” (not land or buildings). It usually can’t cover “inventory” of a business, and can’t cover cash or coins even if antiques. Improper property written in a form is ignored.

### TO COMPLETE GIFT LIST SIGN AND DATE

To be valid a List form just must be signed and usually dated. If many pages of List forms are done they are usually kept together and paper-clipped to a Will.

# **TANGIBLE PERSONAL PROPERTY LIST**

My Will may refer to separate writings making gifts to occur at death and I do this writing for that purpose, including as allowed Georgia Code § 53-4-5.

I understand in this writing only tangible personal property can be given and also only things not specifically disposed of by Will.

I may do many pages of these writings at different times and they all should be seen as 1 document, and if any conflicts occur the more recently done page controls.

If a person getting a gift below does not survive me such gift shall lapse and instead that property passes as my Will says including by a Will residue clause.

This page if not found within 90 days of my death shall have no effect.

## **PROPERTY ITEMS**

## **NAMES OF RECIPIENTS**

_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____

**DATE:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

# CHAPTER 11

## FORM 5: ADVANCE DIRECTIVE FOR HEALTH CARE

### FORM CAN NAME HEALTH CARE AGENT AND GIVE INSTRUCTIONS

This form lets person name someone as “Health Care Agent” to make health care decisions in case person is later incapacitated, and also if wanted also lets person write health care instructions. This is a statutory form written in Georgia law to find and use if wanted. Many people do just this 1 health care form. Paramedics or similar are usually too busy to read this long form, but if wanted people can do shorter forms (see next chapter). This form only matters if later person is incapacitated and can’t tell doctors what to do. This 1 form since it lets Agent be named is often called a “Health Care Power Of Attorney”, and since it also lets person say if later very sick to stop medical care is often called a “Living Will”, so it often has 2 names. Georgia unlike some states has no separate “Living Will” legal document that many people do.

### CAN NAME “AGENT” TO HAVE POWER OVER HEALTH CARE IF NEEDED

Form lets Health Care Agent be named to have power to make medical decisions if person is ever incapacitated. Often named is spouse, adult child, relative, or friend. Naming a family member like spouse or adult child as Agent can avoid them having to rush to see judge to get power later in an emergency. A person’s doctor or anyone associated with place giving health care can’t be the Health Care Agent. The form has spot to name a “Back-up” Agent but many people do not bother since it is rarely needed.

### IN FORM CAN GIVE TREATMENT PREFERENCES INCLUDING “LIVING WILL”

In form people can give written health care instructions that Agent, family, and doctors should all follow. But many people skip writing instructions since they are hard to write to cover all situations, they can cause delay or lawsuits if not clear, and people trust Agent’s or family’s wisdom maybe after quietly talking to them. All people must do what person wrote, and in other areas can use judgment to do what a person probably would want. People can name Agent but skip instructions, or write instructions but not name an Agent. In “Treatment Preferences” part of form a person can say to stop health care if later doctors find person is in awful health and more health likely won’t help, which choice many people call doing a “Living Will”. But many people skip this serious action and just trust Agent or family to wisely decide on stopping care. After doing this form a person with capacity is free to overrule Agent or cancel form by saying so.

### SIGN FORM WITH 2 WITNESSES

To complete form person signs document and has 2 witnesses sign. Witnesses needn’t both be together when they see person sign or hear person “attest” (this is pointing to a signature and confirming they did it). Neither witness can be person who is named Health Care Agent, knowingly is likely to inherit or gain a financial benefit from person’s death, or is directly involved in person’s health care, and only 1 witness may work for any place providing health care. A person can keep the signed form until needed or immediately hand it to Agent or family members to hold and use if needed. The form usually should be shown to any doctor or facility that may give care to make it part of a person’s medical file. To cancel form a person just says this to Agent and then usually person tells any doctor or place shown the form it is canceled.

# GEORGIA ADVANCE DIRECTIVE FOR HEALTH CARE

By: \_\_\_\_\_  
(Print Name)

Date of Birth: \_\_\_\_\_  
(Month/Day/Year)

*This advance directive for health care has four parts:*

## **PART ONE**

**HEALTH CARE AGENT.** This part allows you to choose someone to make health care decisions for you when you cannot (or do not want to) make health care decisions for yourself. The person you choose is called a health care agent. You may also have your health care agent make decisions for you after your death with respect to an autopsy, organ donation, body donation, and final disposition of your body. You should talk to your health care agent about this important role.

## **PART TWO**

**TREATMENT PREFERENCES.** This part allows you to state your treatment preferences if you have a terminal condition or if you are in a state of permanent unconsciousness. PART TWO will become effective only if you are unable to communicate your treatment preferences. Reasonable and appropriate efforts will be made to communicate with you about your treatment preferences before PART TWO becomes effective. You should talk to your family and others close to you about your treatment preferences.

## **PART THREE**

**GUARDIANSHIP.** This part allows you to nominate a person to be your guardian should one ever be needed.

## **PART FOUR**

**EFFECTIVENESS AND SIGNATURES.** This part requires your signature and the signatures of two witnesses. You must complete PART FOUR if you have filled out any other part of this form.

*You may fill out any or all of the first three parts listed above. You must fill out PART FOUR of this form in order for this form to be effective.*

*You should give a copy of this completed form to people who might need it, such as your health care agent, your family, and your physician. Keep a copy of this completed form at home in a place where it can easily be found if it is needed. Review this completed form periodically to make sure it still reflects your preferences. If your preferences change, complete a new advance directive for health care.*

*Using this form of advance directive for health care is completely optional. Other forms of advance directives for health care may be used in Georgia.*

*You may revoke this completed form at any time. This completed form will replace any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that you have completed before completing this form.*

## **PART ONE: HEALTH CARE AGENT**

*[PART ONE will be effective even if PART TWO is not completed. A physician or health care provider who is directly involved in your health care may not serve as your health care agent. If you are married, a future divorce or annulment of your marriage will revoke the selection of your current spouse as your health care agent. If you are not married, a future marriage will revoke the selection of your health care agent unless the person you selected as your health care agent is your new spouse.]*

### **(1) HEALTH CARE AGENT**

I select the following person as my health care agent to make health care decisions for me:

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Numbers and Email: \_\_\_\_\_  
(home phone, work phone, cell phone, email)

### **(2) BACK-UP HEALTH CARE AGENT**

*[This section is optional. PART ONE will be effective even if this section is left blank.]*

If my health care agent cannot be contacted in a reasonable time period and cannot be located with reasonable efforts or for any reason my health care agent is unavailable or unable or unwilling to act as my health care agent, then I select the following, each to act successively in the order named, as my back-up health care agent(s):

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Numbers and Email: \_\_\_\_\_  
(home phone, work phone, cell phone, email)

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Numbers and Email: \_\_\_\_\_  
(home phone, work phone, cell phone, email)

### **(3) GENERAL POWERS OF HEALTH CARE AGENT**

My health care agent will make health care decisions for me when I am unable to communicate my health care decisions or I choose to have my health care agent communicate my health care decisions.

My health care agent will have the same authority to make any health care decision that I could make. My health care agent's authority includes, for example, the power to:

- Admit me to or discharge me from any hospital, skilled nursing facility, hospice, or other health care facility or service;

- Request, consent to, withhold, or withdraw any type of health care; and

- Contract for any health care facility or service for me, and to obligate me to pay for these services (my health care agent will not be financially liable for services or care contracted for me or on my behalf).

**My health care agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing health care.**

My health care agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger and my health care agent may visit or consult with me in person while in a hospital, skilled nursing facility, hospice or other health care facility or service if permitted.

My health care agent may present a copy of this advance directive for health care in lieu of the original and the copy will have the same meaning and effect as the original.

I understand that under Georgia law:

- My health care agent may refuse to act as my health care agent;
- A court can take away the powers of my health care agent if it finds that my health care agent is not acting properly; and
- My health care agent does not have the power to make health care decisions for me regarding psychosurgery, sterilization, or treatment or involuntary hospitalization for mental or emotional illness, developmental disability, or addictive disease.

#### **(4) GUIDANCE FOR HEALTH CARE AGENT**

When making health care decisions for me, my health care agent should think about what action would be consistent with past conversations we have had, my treatment preferences as expressed in PART TWO (if I have filled out PART TWO), my religious and other beliefs and values, and how I have handled medical and other important issues in the past. If what I would decide is still unclear, then my health care agent should make decisions for me that my health care agent believes are in my best interest, considering the benefits, burdens, and risks of my current circumstances and treatment options.

#### **(5) POWERS OF HEALTH CARE AGENT AFTER DEATH**

##### **(A) AUTOPSY**

My health care agent will have the power to authorize an autopsy of my body unless I have limited my health care agent's power by initialing below.

\_\_\_\_\_ (Initials) My health care agent will not have the power to authorize an autopsy of my body (unless an autopsy is required by law).

##### **(B) ORGAN DONATION AND DONATION OF BODY**

My health care agent will have the power to make a disposition of any part or all of my body for medical purposes pursuant to the Georgia Revised Uniform Anatomical Gift Act, unless I have limited my health care agent's power by initialing below.

*[Initial each statement that you want to apply.]*

\_\_\_\_\_ (Initials) My health care agent will not have the power to make a disposition of my body for use in a medical study program.

\_\_\_\_\_ (Initials) My health care agent will not have the power to donate any of my organs.

##### **(C) FINAL DISPOSITION OF BODY**

My health care agent will have the power to make decisions about the final disposition of my body unless I have initialed below.

\_\_\_\_\_ (Initials) I want the following person to make decisions about the final disposition of my body:

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Numbers and Email: \_\_\_\_\_  
(home phone, work phone, cell phone, email)

I wish for my body to be: \_\_\_\_\_ (Initials) Buried OR \_\_\_\_\_ (Initials) Cremated

Other Wishes For Final Disposition: \_\_\_\_\_

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## **PART TWO: TREATMENT PREFERENCES**

*[PART TWO will be effective only if you are unable to communicate your treatment preferences after reasonable and appropriate efforts have been made to communicate with you about your treatment preferences. PART TWO will be effective even if PART ONE is not completed. If you have not selected a health care agent in PART ONE, or if your health care agent is not available, then PART TWO will provide your physician and other health care providers with your treatment preferences. If you have selected a health care agent in PART ONE, then your health care agent will have the authority to make all health care decisions for you regarding matters covered by PART TWO. Your health care agent will be guided by your treatment preferences and other factors described in Section (4) of PART ONE.]*

### **(6) CONDITIONS**

PART TWO will be effective if I am in any of the following conditions:

*[Initial each condition in which you want PART TWO to be effective.]*

\_\_\_\_\_ (Initials) A terminal condition, which means I have an incurable or irreversible condition that will result in my death in a relatively short period of time.

\_\_\_\_\_ (Initials) A state of permanent unconsciousness, which means I am in an incurable or irreversible condition in which I am not aware of myself or my environment and I show no behavioral response to my environment.

My condition will be determined in writing after personal examination by my attending physician and a second physician in accordance with currently accepted medical standards.

### **(7) TREATMENT PREFERENCES**

*[State your treatment preference by initialing (A), (B), or (C). If you choose (C), state your additional treatment preferences by initialing one or more of the statements following (C). You may provide additional instructions about your treatment preferences in the next section. You will be provided with comfort care, including pain relief, but you may also want to state your specific preferences regarding pain relief in the next section.]*

If I am in any condition that I initialed in Section (6) above and I can no longer communicate my treatment preferences after reasonable and appropriate efforts have been made to communicate with me about my treatment preferences, then:

(A) \_\_\_\_\_ (Initials) Try to extend my life for as long as possible, using all medications, machines, or other medical procedures that in reasonable medical judgment could keep me alive. If I am unable to take nutrition or fluids by mouth, then I want to receive nutrition or fluids by tube or other medical means.      OR

(B) \_\_\_\_\_ (Initials) Allow my natural death to occur. I do not want any medications, machines, or other medical procedures that in reasonable medical judgment could keep me alive but cannot cure me. I do not want to receive nutrition or fluids by tube or other medical means except as needed to provide pain medication.      OR

(C) \_\_\_\_\_ (Initials) I do not want any medications, machines, or other medical procedures that in reasonable medical judgment could keep me alive but cannot cure me, except as follows:

*[Initial each statement that you want to apply to option (C).]*

\_\_\_\_\_ (Initials) If I am unable to take nutrition by mouth, I want to receive nutrition by tube or other medical means.

\_\_\_\_\_ (Initials) If I am unable to take fluids by mouth, I want to receive fluids by tube or other medical means.

\_\_\_\_\_ (Initials) If I need assistance to breathe, I want to have a ventilator used.

\_\_\_\_\_ (Initials) If my heart or pulse has stopped, I want to have cardiopulmonary resuscitation (CPR) used.



## **(8) ADDITIONAL STATEMENTS**

*[This section is optional. PART TWO will be effective even if this section is left blank. This section allows you to state additional treatment preferences, to provide additional guidance to your health care agent (if you have selected a health care agent in PART ONE), or to provide information about your personal and religious values about your medical treatment. For example, you may want to state your treatment preferences regarding medications to fight infection, surgery, amputation, blood transfusion, or kidney dialysis. Understanding that you cannot foresee everything that could happen to you after you can no longer communicate your treatment preferences, you may want to provide guidance to your health care agent (if you have selected a health care agent in PART ONE) about following your treatment preferences. You may want to state your specific preferences regarding pain relief.]*

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## **(9) IN CASE OF PREGNANCY**

*[PART TWO will be effective even if this section is left blank.]*

I understand under Georgia law, PART TWO generally has no force and effect if I am pregnant unless the fetus is not viable and I indicate by initialing below that I want PART TWO to be carried out.

\_\_\_\_\_ (Initials) I want PART TWO to be carried out if my fetus is not viable.

## **PART THREE: GUARDIANSHIP**

### **(10) GUARDIANSHIP**

*[PART THREE is optional. This advance directive for health care will be effective even if PART THREE is left blank. If you wish to nominate a person to be your guardian in the event a court decides that a guardian should be appointed, complete PART THREE. A court will appoint a guardian for you if the court finds that you are not able to make significant responsible decisions for yourself regarding your personal support, safety, or welfare. A court will appoint the person nominated by you if the court finds that the appointment will serve your best interest and welfare. If you have selected a health care agent in PART ONE, you may (but are not required to) nominate the same person to be your guardian. If your health care agent and guardian are not the same person, your health care agent will have priority over your guardian in making your health care decisions, unless a court determines otherwise.]*

*[State your preference by initialing (A) or (B). Choose (A) only if you also completed PART ONE.]*

(A) \_\_\_\_\_ (Initials) I nominate the person serving as my health care agent under PART ONE to serve as my guardian.

OR

(B) \_\_\_\_\_ (Initials) I nominate the following person to serve as my guardian:

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Numbers and Email: \_\_\_\_\_  
(home phone, work phone, cell phone, email)

**PART FOUR: EFFECTIVENESS AND SIGNATURES**

This advance directive for health care will become effective only if I am unable or choose not to make or communicate my own health care decisions.

This form revokes any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that I have completed before this date.

Unless I have initialed below and have provided alternative future dates or events, this advance directive for health care will become effective at the time I sign it and will remain effective until my death (and after my death to the extent authorized in Section (5) of PART ONE).

\_\_\_\_\_ (Initials) This advance directive for health care will become effective on or upon \_\_\_\_\_ and will terminate on or upon \_\_\_\_\_.

*[You must sign and date or acknowledge signing and dating this form in the presence of two witnesses. Both witnesses must be of sound mind and must be at least 18 years of age, but the witnesses do not have to be together or present with you when you sign this form.]*

*A witness:*

- *Cannot be a person who was selected to be your health care agent or back-up health care agent in PART ONE;*
- *Cannot be a person who will knowingly inherit anything from you or otherwise knowingly gain a financial benefit from your death; or*
- *Cannot be a person who is directly involved in your health care.*

*Only one of the witnesses may be an employee, agent, or medical staff member of the hospital, skilled nursing facility, hospice, or other health care facility in which you are receiving health care (but this witness cannot be directly involved in your health care).]*

By signing below, I state that I am emotionally and mentally capable of making this advance directive for health care and that I understand its purpose and effect.

\_\_\_\_\_  
(Signature of Declarant)

\_\_\_\_\_  
(Date)

The declarant signed this form in my presence or acknowledged signing this form to me. Based upon my personal observation, the declarant appeared to be emotionally and mentally capable of making this advance directive for health care and signed this form willingly and voluntarily.

\_\_\_\_\_  
(Signature of First Witness)

\_\_\_\_\_  
(Date)

Print Name: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Second Witness)

\_\_\_\_\_  
(Date)

Print Name: \_\_\_\_\_ Address: \_\_\_\_\_

*[This form does not need to be notarized.]*

# CHAPTER 12

## FORM 6: DO NOT RESUSCITATE ORDER

### IN FORM CAN REFUSE C.P.R. WHICH IS SERIOUS ACTION

The Do Not Resuscitate Order form, also called a “D-N-R”, does serious action of saying to immediately no longer try C.P.R. This form is short 1 page with simple wording that can be read fast by paramedics, EMTs, and similar people usually met outside hospital or similar facility. People who want to do this inside hospital or similar facility can use this form but often fill out a longer form (see form in previous chapter). This form is mostly done by sickest or oldest people. This form only matters if person is later incapacitated. Note, also in this chapter is the P.O.L.S.T. form which is similar but covers far more than just C.P.R.

### FORM STOPS C.P.R. FROM BEING GIVEN

The form says to not do C.P.R. which is cardio-pulmonary resuscitation to try to restart breathing or heart. C.P.R. can be painful, cause harm, and be scary to receive or see, so some very sick people don't want it. Pain relief and comfort care is usually still given, so a person falling sick is still usually taken to get this care. The form must be signed by doctor or similar, and usually they explain and provide a colored copy of form. After doing form person with capacity can override it like by saying this or just not showing paramedics form.

### P.O.L.S.T. FORM IS SIMILAR AND CAN STOP MORE TREATMENTS THAN C.P.R.

The “Physician Orders For Life-Sustaining Treatment”, or “P.O.L.S.T.” is similar to the Do-Not-Resuscitate Order except if lets people immediately say to not try many medical treatments listed in form (not just C.P.R.). Doctors usually have copies of this complicated form and explain how to wisely select options in the form.

### FORM IS SIGNED BY PERSON'S DOCTOR

This form must be signed by person's doctor or similar health professional. If a person is incapacitated a Health Care Agent or family can request this form if it's what person would want. Once the form is done it should be shown to places that may give care to put in person's medical file. A person usually keeps nearby or on them copies to show to paramedics and similar people who may try to give some health care. A copy of the form is often kept visible on bedside table, envelope in pocket, or on the home refrigerator. Some people wear a paper bracelet with D-N-R information, or buy a metal bracelet from special Georgia companies. To cancel form people can say or write this, and then usually inform all places shown the form. People can keep form secret but most tell family so they explain to health care personnel if needed.

**DO NOT RESUSCITATE ORDER**

**NAME OF PATIENT:** \_\_\_\_\_

**THIS CERTIFIES THAT AN ORDER NOT TO RESUSCITATE HAS BEEN  
ENTERED ON THE ABOVE-NAMED PATIENT.**

**SIGNED:** \_\_\_\_\_  
**ATTENDING PHYSICIAN**

**PRINTED OR TYPED NAME OF ATTENDING PHYSICIAN:**

\_\_\_\_\_

**ATTENDING PHYSICIAN'S TELEPHONE NUMBER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## **Bracelet/Necklace Optional**

A person who is not in a hospital, nursing home or licensed hospice and has an order not to resuscitate **may** wear an identifying bracelet on either the wrist or the ankle or an identifying necklace and shall post or place a prominent notice in the person's home or residence to provide notice of the order not to resuscitate.

If such bracelet or necklace is worn, it shall be substantially similar to identification bracelets worn in hospitals and shall provide the following information in boldface type:

### **"DO NOT RESUSCITATE ORDER**

**Patient's name:** \_\_\_\_\_

**Authorized person's name and telephone number, if applicable:**

\_\_\_\_\_

**Patient's physician's printed name and telephone number:**

\_\_\_\_\_

**Date of order not to resuscitate:** \_\_\_\_\_

**PAGE LEFT INTENTIONALLY BLANK**



### PHYSICIAN ORDERS FOR LIFE- SUSTAINING TREATMENT (POLST)

Patient's Name \_\_\_\_\_ (First) \_\_\_\_\_ (Middle) \_\_\_\_\_ (Last)  
 Date of Birth \_\_\_\_\_ Gender: Male  Female

<b>A</b> CODE STATUS Check One	<p style="text-align: center;"><b>CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.</b></p> <input type="checkbox"/> Attempt Resuscitation (CPR). <input type="checkbox"/> Allow Natural Death (AND) - Do Not Attempt Resuscitation. <i>** Signature of a concurring physician is needed for this section to be valid if this form is signed by an Authorized Person who is not the Health Care Agent. See additional guidance under III on back of form.</i> <b>When not in cardiopulmonary arrest, follow orders in B, C and D.</b>	
<b>B</b> Check One	<p style="text-align: center;"><b>MEDICAL INTERVENTIONS: Patient has pulse and /or is breathing.</b></p> <input type="checkbox"/> <b>Comfort Measures:</b> Use medication by any route, positioning, wound care, and other measures to relieve pain and suffering. Use oxygen, suction, and manual treatment of airway obstruction as needed for comfort. <i>Do not transfer to hospital for life-sustaining treatment.</i> <input type="checkbox"/> <b>Limited Additional Interventions:</b> In addition to treatment and care described above, provide medical treatment, as indicated. <b>DO NOT USE</b> intubation or mechanical ventilation. <i>Transfer to hospital if indicated. Generally avoid intensive care unit.</i> <input type="checkbox"/> <b>Full Treatment:</b> In addition to treatment and care described above, use intubation, mechanical ventilation, and cardioversion as indicated. <i>Transfer to hospital and/or intensive care unit if indicated.</i> Additional Orders (e.g. dialysis):	
<b>C</b> Check One	<p style="text-align: center;"><b>ANTIBIOTICS</b></p> <input type="checkbox"/> No antibiotics: Use other measures to relieve symptoms. <input type="checkbox"/> Determine use or limitation of antibiotics when infection occurs. <input type="checkbox"/> Use antibiotics if life can be prolonged. Additional Orders:	
<b>D</b> Check One In Each Column	<p><b>ARTIFICIALLY ADMINISTERED NUTRITION/FLUIDS</b>  <b>Where indicated, always offer food or fluids by mouth if feasible</b></p>	
	<input type="checkbox"/> No artificial nutrition by tube. <input type="checkbox"/> Trial period of artificial nutrition by tube. <input type="checkbox"/> Long-term artificial nutrition by tube. Additional Orders:	<input type="checkbox"/> No IV fluids. <input type="checkbox"/> Trial period of IV fluids. <input type="checkbox"/> Long-term IV fluids. Additional Orders:

#### DISCUSSION AND SIGNATURES

The basis for these orders should be documented in the medical record. To the best of my knowledge these orders are consistent with the patient's current medical condition and preferences and comply with the requirements of applicable Georgia law.

Physician Name:	Physician Signature:	Date:
License No.:                      State:		Phone:
Concurring Physician Name ( <i>if needed; see III.i. on back of form</i> ):	Concurring Physician Signature (if needed):	Date:
License No.:                      State:		Phone:
Patient or Authorized Person Name: <i>***authorized person may NOT sign if patient has decision making capacity</i>	Patient or Authorized Person Signature:	Date:
		Phone:

Relationship to Patient (check all that apply):  
 Self    Health Care Agent    Spouse    Court-Appointed Guardian    Son or Daughter    Parent    Brother or Sister

## GUIDANCE FOR COMPLETING THE POLST FORM

1. Completion of a POLST form is always voluntary.
2. Any section of a POLST form which is not completed implies full treatment for interventions discussed in that section.
3. A POLST form may be executed/created:
  - a. when a patient has a serious illness or condition and the attending physician's reasoned judgment is that the patient will die within the next 365 days OR
  - b. at any time if a person has been diagnosed with dementia or another progressive, degenerative disease or condition that attacks the brain and results in impaired memory, thinking, and behavior.
4. **If the patient has decision making capacity**, that patient chooses whether to complete and sign the POLST form with his or her physician. An authorized person may NOT sign the POLST form for a patient who has decision making capacity.
5. **If the patient lacks decision making capacity**, the POLST form may be signed by an "authorized person", which includes, in the following order of priority:
  - a. the agent named on the patient's durable power of attorney for health care or a health care agent named on the patient's advance directive for health care
  - b. a spouse
  - c. a court-appointed guardian
  - d. son or daughter (age 18 or older)
  - e. parent
  - f. brother or sister (age 18 or older)
6. If an authorized person completes and signs the POLST form, treatment choices should be based in good faith on what the patient would have wanted if the patient understood his or her current circumstances.

## ADDITIONAL GUIDANCE FOR HEALTH CARE PROFESSIONALS

- I. **When a POLST form is signed by the Patient** and Attending Physician, all orders may be implemented without restriction.
- II. **When a POLST form is signed by the patient's Health Care Agent** and Attending Physician:
  - i. **If Section A indicates Allow Natural Death – Do Not Attempt Resuscitation**, this order may be implemented when the patient is a "candidate for non-resuscitation"\* as defined in Georgia Code Section 31-39-2(4). However, a concurring physician signature is NOT required per Georgia Code Section 31-92-4(c).
  - ii. **Orders in Sections B, C and D may be implemented without restriction.**
- III. **When a POLST form is signed by an Authorized Person (other than the patient's Health Care Agent)** and Attending Physician:
  - i. **If Section A indicates Allow Natural Death – Do Not Attempt Resuscitation**, this order may be implemented when the patient is a "candidate for non-resuscitation"\* as defined in Georgia Code Section 31-39-2(4). A concurring physician signature is REQUIRED per Georgia Code Section 31-39-4(c).
  - ii. **Orders in B, C, or D may be implemented when patient is:**
    - a. in a terminal condition OR
    - b. state of permanent unconsciousness OR
    - c. diagnosed with dementia or another progressive, degenerative disease or condition that attacks the brain and results in impaired memory, thinking and behavior.
- IV. **The status of resuscitation orders during surgery or other invasive procedures should be reviewed** by the physician with the patient or patient's "authorized person" (as defined above).
- V. Copies of the original POLST form are valid.
- VI. The POLST form shall remain effective unless revoked by the attending physician upon the consent of the patient or the patient's authorized person.
- VII. An attending physician who issues an order using the POLST form and who transfers the patient to another physician shall inform the receiving physician and the health care facility, if applicable, of the order.
- VIII. A health care facility may impose additional administrative or procedural requirements regarding a patient's end of life care decisions, including the use of a separate order form. If the patient is in a health care facility, the attending physician should check with the facility to ensure these orders are valid.

\* Georgia Code Section 31-92-2(4) defines a "candidate for non-resuscitation" to mean a patient who, based on a reasonable degree of medical certainty:

- (A) has a medical condition which can reasonably be expected to result in the imminent death of the patient;
- (B) is in a non-cognitive state with no reasonable possibility of regaining cognitive functions; or
- (C) is a person for whom CPR would be medically futile in that such resuscitation will likely be unsuccessful in restoring cardiac and respiratory function or will only restore cardiac and respiratory function for a brief period of time so that the patient will likely experience repeated need for CPR over a short period of time or that such resuscitation would be otherwise medically futile.

## SUBSEQUENT REVIEW OF THE POLST FORM

This form should be reviewed when (i) the patient is transferred from one care setting or care level to another (ii) released to return home (iii) there is substantial change in the patient's health status, or (iv) the patient's treatment preferences change. If this POLST is voided, replaced, or becomes invalid, then draw a line through sections A through D, write "VOID" in large letters with date and time, and sign by the line. After voiding the form, a new form may be completed. *If no new form is completed, full treatment and resuscitation may be provided.*

Date/Time of Review	Location of Review	Print Name of Reviewer	Outcome of Review	Physician Signature
			<input type="checkbox"/> No Change <input type="checkbox"/> Form Voided, new form completed <input type="checkbox"/> Form Voided, no new form	
			<input type="checkbox"/> No Change <input type="checkbox"/> Form Voided, new form completed <input type="checkbox"/> Form Voided, no new form	



# **CHAPTER 13**

## **FORM 7: STATUTORY FORM POWER OF ATTORNEY**

### **FORM LETS POWER BE GIVEN OVER PROPERTY, MONEY, AND MORE**

The form lets person give power to someone to do things with person's money, property, debt, and more. Some people this a "Financial Power Of Attorney". It is a "statutory form" written in Georgia legal statues for people to find and use if they want.

### **FORM GIVES POWER TO LET SOMEONE HELP WITH PROPERTY AND MONEY**

Form lets "Principal" give power to "Agent" or "Attorney-in-Fact" to do things involving Principal's money, property, and other things. Often Agent is a trusted person like spouse, relative, or friend. This form lets Agent help do chores, pay bills, move money in accounts, buy or sell items, sign contracts, take out debt, and get information from others. This can help if person is sick, busy, or away. The form may help person stay home and not need nursing home or a court doing something. People with capacity still have power and can overrule or fire an Agent. Naming "Successor Agents" is usually skipped since it is rarely needed. In form a person can say who should be "Conservator" if one is needed, and usually they name the Agent. Later if Agent signs things it should be like, "Ed Doe signing as Agent under Power of Attorney for Ann Po".

### **FORM LETS PERSON PICK POWERS TO GIVE**

Form has place to initial to pick powers of Agent but to avoid possible problems usually people give much power, like by initialing line saying "All Preceding Powers". In "Grant of Specific Authority" area are extra dangerous powers (like power to gift away money and property) and many people don't give these.

### **DUE TO RISKS INCLUDING FRAUD MANY SKIP FORM OR CONSULT A LAWYER**

Doing this form can be risky and lead to loss of money and property since an Agent can do dumb or criminal actions like stealing property, wasting money on dumb items, or just causing harm by carelessness. Agents have a "duty of care" and can be sued later but they might be out of money so can't undo their harm. Usually banks or others can't be blamed for obeying an Agent. Many people ask a lawyer for advice.

### **IT MAY BE IMPROPER FOR AGENT TO MAKE GIFTS OR DO OTHER THINGS**

This area of law is complex and basic acts may be fine like paying bills, moving funds, or getting records. But less usual acts may be improper and even a crime by Agent like as gift handing out money or property to family or friends, making risky investments, or doing unusual acts. Many people ask a lawyer for advice.

### **SIGN FORM IN FRONT OF A NOTARY**

The form should be signed by person doing it in front of a notary and 1 witness who can't be named as Agent in the form. Once signed the form can be kept till needed or given quickly to Agent to hold and use. Some people show form quickly to banks or similar to tell them to later follow it. To cancel form a person should tell Agent and take back copies, and usually tell all people who saw the form it is cancelled.

**State of Georgia**

**County of \_\_\_\_\_**

## **STATUTORY FORM POWER OF ATTORNEY**

### **IMPORTANT INFORMATION**

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in O.C.G.A. Chapter 6B of Title 10.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise in the Special Instructions, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is not entitled to any compensation unless you state otherwise in the Special Instructions. Your agent shall be entitled to reimbursement of reasonable expenses incurred in performing the acts required by you in your power of attorney.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a successor agent or name a coagent in the Special Instructions. Coagents will not be required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney shall be durable unless you state otherwise in the Special Instructions.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

*If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.*

**DESIGNATION OF AGENT**

I \_\_\_\_\_ (Name of principal)  
name the following person as my agent:

Name of agent: \_\_\_\_\_

Agent's address: \_\_\_\_\_

Agent's phone: \_\_\_\_\_ Agent's e-mail: \_\_\_\_\_

**DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of successor agent: \_\_\_\_\_

Successor agent's address: \_\_\_\_\_

Successor agent's phone: \_\_\_\_\_

Successor agent's e-mail: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I name as my second  
successor agent:

Name of second successor agent: \_\_\_\_\_

Second successor agent's address: \_\_\_\_\_

Second successor agent's phone: \_\_\_\_\_

Second successor agent's e-mail: \_\_\_\_\_

**GRANT OF GENERAL AUTHORITY**

I grant my agent and any successor agent general authority to act for me with respect to  
the following subjects as defined in O.C.G.A. Chapter 6B of Title 10:

(INITIAL each subject you want to include in the agent's general authority. If you wish  
to grant general authority over all of the subjects, you may initial all preceding subjects  
instead of initialing each subject.)

(\_\_\_\_\_) Real property

(\_\_\_\_\_) Tangible personal property

(\_\_\_\_\_) Stocks and bonds

(\_\_\_\_\_) Commodities and options

(\_\_\_\_\_) Banks and other financial institutions

(\_\_\_\_\_) Operation of entity or business

(\_\_\_\_\_) Insurance and annuities

(\_\_\_\_\_) Estates, trusts, and other beneficial interests

(\_\_\_\_\_) Claims and litigation

(\_\_\_\_\_) Personal and family maintenance

- Benefits from governmental programs or civil or military service
- Retirement plans
- Taxes
- All preceding subjects**

### **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

My agent SHALL NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent. You should give your agent specific instructions in the Special Instructions when you authorize your agent to make gifts.)

- Create, fund, amend, revoke, or terminate an inter vivos trust
- Make a gift, subject to the limitations of O.C.G.A. 10-6B-56 and any Special Instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of Attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise authority over the content of electronic communications sent or received by the principal
- Exercise fiduciary powers that the principal has authority to delegate and that are expressly and clearly identified (including the persons for which the principal acts as a fiduciary) in the Special Instructions
- Renounce an interest in property, including a power of appointment

### **LIMITATION ON AGENT'S AUTHORITY**

An agent that is not my ancestor, spouse, or descendant SHALL NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

### **SPECIAL INSTRUCTIONS (OPTIONAL)**

You may give special instructions on the following lines (you may add lines or place your special instructions in a separate document and attach it to the power of attorney):

**EFFECTIVE DATE**

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

**NOMINATION OF CONSERVATOR (OPTIONAL)**

If it becomes necessary for a court to appoint a conservator of my estate, I nominate the following person(s) for appointment:

Name of nominee for conservator of my estate: \_\_\_\_\_

Nominee's address: \_\_\_\_\_

Nominee's telephone number: \_\_\_\_\_

Nominee's e-mail address: \_\_\_\_\_

**RELIANCE ON THIS POWER OF ATTORNEY**

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person has actual knowledge it has terminated or is invalid.

**SIGNATURE AND ACKNOWLEDGMENT**

Your signature: \_\_\_\_\_ Date: \_\_\_\_\_

Your name printed: \_\_\_\_\_

Your address: \_\_\_\_\_

Your phone: \_\_\_\_\_ Your email: \_\_\_\_\_

**(WITNESS)**

This document was signed or acknowledged in my presence on \_\_\_\_\_ by \_\_\_\_\_.  
(Date) (Name of Principal)

Witness signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness name printed: \_\_\_\_\_

Witness address: \_\_\_\_\_

Witness phone: \_\_\_\_\_ Witness email: \_\_\_\_\_

**(NOTARY)**

**State of Georgia**

**County of** \_\_\_\_\_

This document was signed or acknowledged in my presence on \_\_\_\_\_ by \_\_\_\_\_.  
(Date) (Name of Principal)

**(Seal)**

Signature of notary: \_\_\_\_\_

Commission expires: \_\_\_\_\_

## IMPORTANT INFORMATION FOR AGENT

### Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) Act in good faith;

(3) Do nothing beyond the authority granted in this power of attorney; and

(4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as agent in the following manner:

**( Principal's name ) by ( Your signature ) as Agent.**

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in principal's best interest;

(3) Act with care, competence, and diligence;

(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(6) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of your authority or the power of attorney;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished; or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

### Liability of Agent

The meaning of the authority granted to you is defined in O.C.G.A. Chapter 6B of Title 10. If you violate O.C.G.A. Chapter 6B of Title 10 or act outside the authority granted, you may be liable for any damages caused by your violation.

*If there is anything about this document or your duties that you do not understand, you should seek legal advice.*

# CHAPTER 14

## FORM 8: POWER OF ATTORNEY FOR THE CARE OF A MINOR CHILD

### FORM LETS PARENT GIVE POWER TO SOMEONE OVER MINOR CHILD

This form lets parent give power over minor child under 18 to someone. This statutory form is found in Georgia law for people to find and use if wanted. The first page of form is page of helpful information.

### FORM CAN DESIGNATE SOMEONE TO HAVE POWER OVER CHILD

In form a parent or similar can name someone as “Agent” to have power over minor child. Agent must be at least 18 and Georgia resident. Georgia since 2021 no longer limits doing this to just grandparents. This form is technically a “power of attorney” kind of form so the Agent is also called the “attorney-in-fact”. This form can let friend, relative, or teacher if needed make decisions about child’s health care, school, food, home, or discipline. This form is often used if parent is away from child for work, school, sports, drug treatment, prison or jail, immigration, military, weeks long visit with family or friends, or if child is sick in hospital and needs someone close by. The form is not usually done for short time of just couple days. A parent keeps power so really power is shared, and parent can fire Agent or overrule a decision anytime.

### FORM COVERS BACKGROUND CHECKS, POWERS GIVEN, AND DURATION

As the form says if Agent is not related to child a background check is usually required. In the form a person can say either a) all powers parent has are given (which is common to avoid certain problems) or b) limited powers handwritten into form are given (this is rarely used). In form the duration can be chosen and a) most people pick 1 year the maximum, b) if power goes to grandparent there is no time limit, and c) military people can set it to length of deployment.

### COMPLETE FORM BY SIGNING IN FRONT OF NOTARY

Both 2 parents must sign form in front of a notary if alive and have joint legal custody, otherwise 1 parent signing is sufficient. Georgia law O.C.G.A § 19-9-125 (which people can look up) explains a parent without legal custody needn’t sign but should get certified mail notice without 15 days after which they have 21 days to object for good reason (this is rare). The person getting power before using form must sign before a notary an “Acceptance” form saying they have no serious criminal history including of child abuse. To cancel form before it is set to end a parent should tell person who got power and take back copies, and should usually tell everyone who was shown the form it is cancelled.

# **POWER OF ATTORNEY FOR THE CARE OF A MINOR CHILD**

(SEE GEORGIA O.C.G.A. § 19-9-134)

## **NOTICE:**

- (1) THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE INDIVIDUAL WHOM YOU DESIGNATE (THE AGENT) POWERS TO CARE FOR YOUR CHILD, INCLUDING THE POWER TO: HAVE ACCESS TO EDUCATIONAL RECORDS AND DISCLOSE THE CONTENTS TO OTHERS; ARRANGE FOR AND CONSENT TO MEDICAL, DENTAL, AND MENTAL HEALTH TREATMENT FOR THE CHILD; HAVE ACCESS TO RECORDS RELATED TO SUCH TREATMENT OF THE CHILD AND DISCLOSE THE CONTENTS OF THOSE RECORDS TO OTHERS; PROVIDE FOR THE CHILD'S FOOD, LODGING, RECREATION, AND TRAVEL; AND HAVE ANY ADDITIONAL POWERS AS SPECIFIED BY THE INDIVIDUAL EXECUTING THIS POWER OF ATTORNEY.
- (2) THE AGENT IS REQUIRED TO EXERCISE DUE CARE TO ACT IN THE CHILD'S BEST INTERESTS AND IN ACCORDANCE WITH THE GRANT OF AUTHORITY SPECIFIED IN THIS FORM.
- (3) A COURT OF COMPETENT JURISDICTION MAY REVOKE THE POWERS OF THE AGENT.
- (4) THE AGENT MAY EXERCISE THE POWERS GIVEN IN THIS POWER OF ATTORNEY FOR THE CARE OF A CHILD FOR THE PERIOD SET FORTH IN THIS FORM UNLESS THE INDIVIDUAL EXECUTING THIS POWER OF ATTORNEY REVOKES THIS POWER OF ATTORNEY AND PROVIDES NOTICE OF THE REVOCATION TO THE AGENT OR A COURT OF COMPETENT JURISDICTION TERMINATES THIS POWER OF ATTORNEY.
- (5) THE AGENT MAY RESIGN AS AGENT AND MUST IMMEDIATELY COMMUNICATE SUCH RESIGNATION TO THE INDIVIDUAL EXECUTING THIS POWER OF ATTORNEY AND TO SCHOOLS, HEALTH CARE PROVIDERS, AND OTHERS KNOWN TO THE AGENT TO HAVE RELIED UPON SUCH POWER OF ATTORNEY.
- (6) THIS POWER OF ATTORNEY MAY BE REVOKED IN WRITING. IF THIS POWER OF ATTORNEY IS REVOKED, THE REVOKING INDIVIDUAL SHALL NOTIFY THE AGENT, SCHOOLS, HEALTH CARE PROVIDERS, AND OTHERS KNOWN TO THE INDIVIDUAL EXECUTING THIS POWER OF ATTORNEY TO HAVE RELIED UPON SUCH POWER OF ATTORNEY.
- (7) IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK AN ATTORNEY TO EXPLAIN IT TO YOU.



**STATE OF GEORGIA**  
**COUNTY OF \_\_\_\_\_**

Personally appeared before me, the undersigned officer duly authorized to administer oaths,  
\_\_\_\_\_(name of parent) who, after having been sworn,  
deposes and says as follows:

1. I certify that I am the parent of:

\_\_\_\_\_  
(Full name of child)

\_\_\_\_\_  
(Date of birth)

2. I designate: \_\_\_\_\_  
(Full name of agent)

\_\_\_\_\_  
(Street address, city, state, and ZIP Code of agent)

\_\_\_\_\_  
(Personal and work telephone numbers of agent)

as the agent of the child named above.

3. The agent named above is related or known to me as *follows* (write in your relationship to the agent; for example, aunt of the child, maternal grandparent of the child, sibling of the child, godparent of the child, associated with a nonprofit or faith based organization):

4. Sign by the statement you wish to choose (you may only choose one):

(A) \_\_\_\_\_(Signature) The agent named above is related to me by blood or marriage and I have elected not to have agent obtain a criminal background check.

OR

(B) \_\_\_\_\_(Signature) The agent named above is not related to me and I have reviewed his or her criminal background check. (If the agent has a criminal conviction, complete the rest of this paragraph.) I know that the agent has a conviction but I want him or her to be the agent because (write in):

5. Sign by the statement you wish to choose (you may only choose one):

(A) \_\_\_\_\_(Signature) I delegate to the agent **all my power and authority regarding the care and custody of the child named above**, including but not limited to the right to inspect and obtain copies of educational records and other records concerning the child, attend school activities and other functions concerning the child, and give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function, or treatment that may concern the child. This delegation shall not include the power or authority to consent to the marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

OR

(B) \_\_\_\_\_ (Signature) I delegate to the agent the following specific powers and responsibilities (*write in*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This delegation shall not include the power or authority to consent to the marriage or adoption of the child, the performance of inducement of an abortion on or for the child, or the termination of parental rights to the child.

6. Initial by the statement you wish to choose (*you may only choose one of the three options*) and complete the information in the paragraph:

(A) \_\_\_\_\_ (Initials) This power of attorney is effective for a period not to exceed one year, beginning \_\_\_\_\_, 20\_\_\_\_, and ending \_\_\_\_\_, 20\_\_\_\_. I reserve the right to revoke this power and authority at any time.

OR

(B) \_\_\_\_\_ (Initials) This power of attorney is being given to a grandparent of my child and is effective until I revoke this power of attorney.

OR

(C) \_\_\_\_\_ (Initials) I am a parent as described in O.C.G.A. § 19-9-130(b). My deployment is scheduled to begin on \_\_\_\_\_, 20\_\_\_\_, and is estimated to end on \_\_\_\_\_, 20\_\_\_\_. I acknowledge that in no event shall this delegation of power and authority last more than one year or the term of my deployment plus 30 days, whichever is longer. I reserve the right to revoke this power and authority at any time.

7. I hereby swear or affirm under penalty of law that I provided the notice required by O.C.G.A. § 19-9- 125 and received no objection in the required time period.

By: \_\_\_\_\_  
(Parent signature)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
(Street Address, city, state, and ZIP Code of parent)

\_\_\_\_\_  
(Personal and work telephone numbers of parent)

Sworn to and subscribed before me this  
\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Notary public (SEAL)

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

**ACCEPTANCE BY AGENT**

Personally appeared before me, the undersigned officer duly authorized to administer oaths,  
\_\_\_\_\_ (name of agent) who, after having been  
sworn, deposes and says as follows:

I hereby accept my designation as agent for the child specified in this power of attorney and by doing so acknowledge my acceptance of the responsibility for caring for such child for the duration of this power of attorney. Furthermore, I hereby certify that:

(A) (i) I am related to the individual giving me this power of attorney by blood or marriage as follows (*write in your relationship to the individual designating you as agent; for example, sister, mother, father, etc.*): \_\_\_\_\_

OR

(ii) I am not related to the individual giving me this power of attorney but was referred to him or her by: \_\_\_\_\_  
(*write in the name of the child-placing agency, nonprofit entity, or faith based organization*).

(B) I am not currently on the state sexual offender registry or child abuse registry of this state or the sexual offender registry or child abuse registry for any other state, a United States territory, the District of Columbia, or any American Indian tribe nor have I ever been required to register for any such registry;

(C) I have provided a criminal background check to the individual designating me as an agent, if it was required;

(D) I understand that I have the authority to act on behalf of the child:

-- For the period of time set forth in this form;

-- Until the power of attorney is revoked in writing and notice is provided to me as required by O.C.G.A. § 19-9-130; or

-- Until the power of attorney is terminated by order of a court;

(E) I understand that if I am made aware of the death of the individual who executed the power of attorney, I must notify the surviving parent of the child, if know, as soon as practicable; and

(F) I understand that I may resign as agent by notifying the individual who executed the power of attorney in writing by certified mail, return receipt requested, or statutory overnight delivery and I must also notify any schools, health care providers, and other to whom I give a copy of this power of attorney.

\_\_\_\_\_  
(Agent signature)

\_\_\_\_\_  
(Printed name)

Sworn to and subscribed before me this  
\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary public

(SEAL)

# CHAPTER 15

## FORM 9: DESIGNATION TO CONTROL REMAINS

### LETS PERSON BE NAMED TO CONTROL FUNERAL AND RELATED MATTERS

This form lets person be named to control funeral and related matters like burial. This is a statutory form found in Georgia law for people to use if they want.

### IN FORM CAN NAME AGENT TO CONTROL FUNERAL AND RELATED MATTERS

The form lets person name someone to control their bodily remains including related things like funeral, burial, cremation, ceremonies, religious services, tombstone, and buying goods and services for all this. If this form is not done control of these things is by closest family (in order - a spouse, adult child, parent, and brothers or sisters). People usually do this form only if family likely will be too upset while mourning, be bad with money, or do unwanted things. Payment for things comes from pre-paid funeral accounts, insurance, and decedent's or estate's money and property, and Executor and family legally must help arrange payment.

### DO WHAT DECEASED WANTED FOR THEIR BODILY REMAINS AND CEREMONIES

The form has spot to write some instructions but many people skip this and trust the person given power to be wise or do what was discussed. Some people write instructions just to urge low cost. People including family should do funeral, burial, and related things a person wanted if decedent's estate can afford it.

### SEVERAL OPTIONS ABOUT BODILY REMAINS AND EVENTS EXIST

After a death police are told then funeral home or crematorium come get body. Half of people pick burial and half cremation, and if picking cremation later "cremains" go to family or "columbarium" vault in cemetery.

Half of people do not do early events in first month when shocked family may be unready for visitors. Months later these people often do "Celebration", "Remembrance", or "Ash Scattering" at house, park, church, rented hall, or funeral home, often with food, speech, or video, but maybe no remains present to be less sad. Importantly, if "Direct Burial" or "Direct Cremation" is requested quickly costs may be 80% off usual \$10,000+ but this skips events involving the body till day after burial or cremation.

Half of people do early events within month, and there are several complicated options to pick from. First, some people do within days a "Vigil", "Viewing", or "Wake", where family and friends talk or pray maybe in room with body (with closed or open casket) or cremated ashes, often done at Funeral Home or church. Second, some people do big ceremony within week of either a) funeral (maybe with Mass) in church with priest or minister, or b) informal event like "Celebration of Life" or "Remembrance" with or without the body. Third, some people do final event at cemetery (religious or not), like a burial or putting ashes in a vault. Note, if event uses body not just ashes it usually is at funeral home, church, or cemetery and within weeks.

### SIGN FORM WITH NOTARY

The form must be signed by person in front of a notary. The person doing form is called in form "Affiant". People should keep form in place it can be found within days of death. The form can be canceled by ripping it up, throwing it away, or clearly saying so, and then usually tell all persons who have been shown the form.

# DESIGNATION TO CONTROL REMAINS

Georgia Code § 31-21-7

State of Georgia

County of \_\_\_\_\_

I, \_\_\_\_\_, do hereby designate \_\_\_\_\_

with the right to control the disposition of my remains upon my death.

I (circle one) have not attached or written below specific directions concerning the disposition of my remains with which the designee shall substantially comply, provided such directions are lawful and there are sufficient resources in my estate to carry out the directions.

(Optional) DIRECTIONS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Affiant: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature of Notary Public: \_\_\_\_\_

# **APPENDIX: HOW TO GET FORMS AND SOME SAMPLE FILLED-OUT FORMS**

TO GET FORMS TO USE PEOPLE CAN:

- (1) PHOTOCOPY BOOK PAGES,
- (2) TEAR OUT PAGES FROM A BOOK, OR
- (3) DOWNLOAD BOOK WITH FORMS FROM [WWW.DAVENPORTPUBLISHING.COM](http://WWW.DAVENPORTPUBLISHING.COM).

EMAIL ANY COMMENTS TO [DAVENPORTPRESS@GMAIL.COM](mailto:DAVENPORTPRESS@GMAIL.COM).

On the next pages to show how it can be done are some sample fill-in legal forms.

People can add words to legal forms by computer or typewriter which can be bit neater, but many people just by hand use pen, marker, or pencil to add words to form.

All signatures and dates by signatures should be handwritten with permanent pen or marker and not done by a computer or typewriter.

Anyone can fill in a legal form, like a friend with neat writing can fill in all the words, addresses, and dates that are needed. Only the final signatures must be done by each person signing.

To add words in form by pen, pencil, typewriter, or computer any of these is fine:

"I appoint John Doe as Agent" ,

"I appoint John Doe as Agent",

"I appoint John Doe as Agent".

People need not worry about neatness or small mistake, and a document is usually fine if those people who knew a decedent in life can tell the likely meaning.

When doing forms it may help to know "respectively" means "in order just stated".

Sample Filled Out Form: Last Will and Testament (Standard)

LAST WILL AND TESTAMENT

I, Susan Lee Maxwell, of Fulton County, Georgia, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. When doing this I am of sound mind and under no duress or undue influence.

1. GIFTS. I give these gifts but to get a gift the recipient must survive the Testator, except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

SHIPPED

2. GIFTS OF TANGIBLE PERSONAL PROPERTY BY SEPARATE WRITINGS.

I may gift tangible personal property by writings separate from a Will as allowed by state law including Georgia Code § 53-4-5. Any such writing not found within 90 days of my death shall be canceled and of no effect. Any such writing existing when this Will is done is not revoked or canceled unless some part of this Will specifically says this.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in (all of which is called the “residue”), so long as any such thing was not transferred by other Will provisions, as follows:

a) to Paul Thomas Maxwell who survive me with persons just named who survive me taking the share of non-survivors, then

b) to Jennifer Pamela Maxwell and Oscar Kent and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

**4. ADMINISTRATION.** I name and appoint Paul Thomas Maxwell as Executor including for me, my Will, and my estate.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

If gift or gift section mentions survival, survive, or surviving then survival is an absolute condition and anti-lapse laws or similar have no effect.

Any failure to make gifts to family including children is intentional and not a mistake.

No gift or transfer made during life reduces or offsets a Will gift unless during my life I expressly called it a “loan” or “advancement”.

Use of particular gender shall include other genders, reference to singular or plural shall be interchangeable, and “they” may be singular or plural.

If context permits the terms Executor, Personal Representative, and Administrator shall be seen as interchangeable as if all were written, and if context permits Conservator is interchangeable with Guardian of Property and Guardian of the Estate.

An Executor may anytime pay or settle claims or debts they in their sole discretion find proper or helpful to pay, but I specifically say any secured debts including mortgages or liens on real property or vehicles should not be paid off unless parts of this Will specify it.

I give any person named or acting as Executor the fullest power and discretion allowed by state law, and I grant them all powers that may be conferred on Executors by Georgia law including Georgia Code §§ 53-12-261 and 263 et seq., as amended.

Any person named or acting as Executor shall not be required to render and file annual accountings with respect to property or money including in relation to my Will or estate.

I authorize informal probate of my estate and Will and also administrative probate if any Executor chooses, and any Executor may act independently in all ways.

I give any Executor authority to lease, sell, mortgage, convey, or retain property of mine in such manner and at such time they deem in the best interest, helpful, or proper.



The residue includes lapsed or failed gifts, insurance paid to estate, inheritances owed me, and property I had a power of appointment or testamentary disposition over.

If in Georgia or other place a Conservator, Personal Representative, Administrator, Guardian of the Estate, any other fiduciary is needed for a child of mine or their estate or property, or for any other person, then I appoint for that the person named Executor above.

Any Executor, Guardian, Personal Representative, Conservator, Administrator, or fiduciary under this Will or otherwise, shall qualify and serve without bond, security, surety, or similar, including despite place of residence or lack of ties to a state or country.

This Will does not revoke a Living Will or any legal document concerning health care.

**TESTATOR**

IN WITNESS WHEREOF, I, Susan Lee Maxwell, sign, publish, and declare this instrument as my Will, this 22nd day of June, 2022.

Susan Lee Maxwell

Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the witnesses, and we do now sign our names in this document below as witnesses at the request and in the presence of the Testator and presence of each other on this 22nd day of June, 2022.

Nancy Ann Smith

Witness

24 Main St., Bond, GA 30882

Address

Pamela Bonnie Rooker

Witness

15 Roy St., Bond, GA 30882

Address

**Sample Filled Out Form: Last Will and Testament (Standard)**

**LAST WILL AND TESTAMENT**

I, Henry James Ford, of Gwinnett County, Georgia, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this to be my Will. When doing this I am of sound mind and under no duress or undue influence.

**1. GIFTS.** I give these gifts but to get a gift the recipient must survive the Testator, except as otherwise stated below.

I give big oak table to Anne J. Wix.

I give \$5,000 to Loretta Marsha Switt in the hope she will help her young daughter Megan Kara Switt.

I give 63 Ivy Road, Atlanta, Georgia to Greta Olivia Fox.

I give all land in Cobb County in Georgia to Greta Olivia Fox.

I give 9087 Wilderness Road, Bozeman, MT to James Tiberius Smith.

I give Bronze Roman Lamp to Anne Kilby and Kevin Kilby.

I give wedding ring to Ruth Jones.

I give all jewelry not given above to Kay Pidoski.

I give \$7,281.35 to Wanda Kay Zinski.

I give UBank account #8980443723 to Joy Rundy a friend.

I give 1998 Ford truck to John Smith my uncle.

I give a total of \$50,000 to Brian Peterson, Michael Peterson, and Mary Hart.

I give Wells Fargo acct ending in #8923 to Lawrence Deer.

I give \$1,000 to that charity food kitchen on Smith Avenue in Macon, Georgia.

I give all extra spare tires I own at my death to Victor Perez my mechanic.

I give \$6,000 in total to my cousin Carol Brown's children.

I give \$500 each to each of my grandchildren.

**2. GIFTS OF TANGIBLE PERSONAL PROPERTY BY SEPARATE WRITINGS.**

I may gift tangible personal property by writings separate from a Will as allowed by state law including Georgia Code §53-4-5. Any such writing not found within 90 days of my death shall be canceled and of no effect. Any such writing existing when this Will is done is not revoked or canceled unless some part of this Will specifically says this.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in (all of which is called the “residue”), so long as any such thing was not transferred by other Will provisions, as follows:

- a) to Pamela Bonnie Ford my wife who survive me with persons just named who survive me taking the share of non-survivors, then
- b) to my kids Ron Ford, Kevin Ford, Tina Ford, and Vera Hill and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

**4. ADMINISTRATION.** I name and appoint Pamela Bonnie Ford my wife as Executor including for me, my Will, and my estate.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

If gift or gift section mentions survival, survive, or surviving then survival is an absolute condition and anti-lapse laws or similar have no effect.

Any failure to make gifts to family including children is intentional and not a mistake.

No gift or transfer made during life reduces or offsets a Will gift unless during my life I expressly called it a “loan” or “advancement”.

Use of particular gender shall include other genders, reference to singular or plural shall be interchangeable, and “they” may be singular or plural.

If context permits the terms Executor, Personal Representative, and Administrator shall be seen as interchangeable as if all were written, and if context permits Conservator is interchangeable with Guardian of Property and Guardian of the Estate.

An Executor may anytime pay or settle claims or debts they in their sole discretion find proper or helpful to pay, but I specifically say any secured debts including mortgages or liens on real property or vehicles should not be paid off unless parts of this Will specify it.

I give any person named or acting as Executor the fullest power and discretion allowed by state law, and I grant them all powers that may be conferred on Executors by Georgia law including Georgia Code §§ 53-12-261 and 263 et seq., as amended.

Any person named or acting as Executor shall not be required to render and file annual accountings with respect to property or money including in relation to my Will or estate.

I authorize informal probate of my estate and Will and also administrative probate if any Executor chooses, and any Executor may act independently in all ways.

I give any Executor authority to lease, sell, mortgage, convey, or retain property of mine in such manner and at such time they deem in the best interest, helpful, or proper.

The residue includes lapsed or failed gifts, insurance paid to estate, inheritances owed me, and property I had a power of appointment or testamentary disposition over.

If in Georgia or other place a Conservator, Personal Representative, Administrator, Guardian of the Estate, any other fiduciary is needed for a child of mine or their estate or property, or for any other person, then I appoint for that the person named Executor above.

Any Executor, Guardian, Personal Representative, Conservator, Administrator, or fiduciary under this Will or otherwise, shall qualify and serve without bond, security, surety, or similar, including despite place of residence or lack of ties to a state or country.

This Will does not revoke a Living Will or any legal document concerning health care.

**TESTATOR**

IN WITNESS WHEREOF, I, Henry James Ford sign, publish, and declare this instrument as my Will, this 30th day of December, 2017.

Henry James Ford

Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the witnesses, and we do now sign our names in this document below as witnesses at the request and in the presence of the Testator and presence of each other on this 30th day of December, 2017.

Olivia Joy Pawlenty

Witness

87 Hastings Avenue, Buffalo, GA 30987

Address

Roy Felix Pawlenty

Witness

87 Hastings Avenue, Buffalo, GA 30987

Address

**Sample Filled Out Form: Last Will and Testament (Guardians)**

**LAST WILL AND TESTAMENT**

I, Ruth May Kent , of Cobb County, Georgia, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this to be my Will. When doing this I am of sound mind and under no duress or undue influence.

**1. GIFTS.** I give these gifts but to get a gift the recipient must survive the Testator, except as otherwise stated below.

I give silverware and copper bathtub and Jetski to Ann Porter.

I give 1987 Ford Truck and any other vehicles I own to Bill Porter.

I give \$2,000 to Greg Best but if he fails to survive then his wife Jo Best.

I give \$1,000 to the American Red Cross charity.

I give \$2,250 to St. Joseph's my church.

I give \$300 to Timmy Hart my paperboy.

I give a total of \$10,000 50% to Abraham Daniel Walker, 40% to Amy Ann Hope, and 10% to Jennifer Kim Beaufort.

I give \$1,300 and my cat Garfield to Sara Ham who I trust to care for him.

I give \$5,000 to Juanita Chuzappa my Home Nurse but if she fails to survive me then to her children.

I give \$100 to each of my first cousins.

I give \$7,002.21 to Brenda Hill but if she fails to survive her son Eric Hill.

**2. GIFTS OF TANGIBLE PERSONAL PROPERTY BY SEPARATE WRITINGS.**

I may gift tangible personal property by writings separate from a Will as allowed by state law including Georgia Code § 53-4-5. Any such writing not found within 90 days of my death shall be canceled and of no effect. Any such writing existing when this Will is done is not revoked or canceled unless some part of this Will specifically says this.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in (all of which is called the “residue”), so long as any such thing was not transferred by other Will provisions, as follows:

a) to Ken Rufus Kent my husband who survive me with persons just named who survive me taking the share of non-survivors, then

b) to my young children Pamela Sue Kent and Adam David Kent and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

**4. ADMINISTRATION.** I name and appoint Ken Rufus Kent my husband as Executor including for me, my Will, and my estate.

**5. GUARDIANS.** I name and nominate Helen Olivia Kent my sister as Guardian of the Person of any child of mine or other person without full legal capacity.

I name and nominate Ken Rufus Kent my husband as Guardian of the Estate of any minor child or infant of mine or other person without full legal capacity, and this person I name should be guardian for their money, property, and estate.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

If gift or gift section mentions survival, survive, or surviving then survival is an absolute condition and anti-lapse laws or similar have no effect.

Any failure to make gifts to family including children is intentional and not a mistake.

No gift or transfer made during life reduces or offsets a Will gift unless during my life I expressly called it a “loan” or “advancement”.

Use of particular gender shall include other genders, reference to singular or plural shall be interchangeable, and “they” may be singular or plural.

If context permits the terms Executor, Personal Representative, and Administrator shall be seen as interchangeable as if all were written, and if context permits Conservator is interchangeable with Guardian of Property and Guardian of the Estate.

An Executor may anytime pay or settle claims or debts they in their sole discretion find proper or helpful to pay, but I specifically say any secured debts including mortgages or liens on real property or vehicles should not be paid off unless parts of this Will specify it.

I give any person named or acting as Executor the fullest power and discretion allowed by state law, and I grant them all powers that may be conferred on Executors by Georgia

law including Georgia Code §§ 53-12-261 and 263 et seq., as amended.

Any person named or acting as Executor shall not be required to render and file annual accountings with respect to property or money including in relation to my Will or estate.

I authorize informal probate of my estate and Will and also administrative probate if any Executor chooses, and any Executor may act independently in all ways.

I give any Executor authority to lease, sell, mortgage, convey, or retain property of mine in such manner and at such time they deem in the best interest, helpful, or proper.

The residue includes lapsed or failed gifts, insurance paid to estate, inheritances owed me, and property I had a power of appointment or testamentary disposition over.

If in Georgia or other place a Conservator, Personal Representative, Administrator, Guardian of the Estate, any other fiduciary is needed for a child of mine or their estate or property, or for any other person, then I appoint for that the person named Executor above.

Any Executor, Guardian, Personal Representative, Conservator, Administrator, or fiduciary under this Will or otherwise, shall qualify and serve without bond, security, surety, or similar, including despite place of residence or lack of ties to a state or country.

This Will does not revoke a Living Will or any legal document concerning health care.

**TESTATOR**

IN WITNESS WHEREOF, I, Ruth May Kent did sign, publish, and declare this instrument as my Will, this 22nd day of July, 2021.

Ruth May Kent  
Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the witnesses, and we do now sign our names in this document below as witnesses at the request and in the presence of the Testator and presence of each other on this 22nd day of July, 2021.

Susan Harriet Rogers  
Witness

87 Badger Road, Athens, Georgia 30913  
Address

Lucy Ann Pamway  
Witness

892 Main Street, Jacksonville, FL 31887  
Address

**Sample Filled Out Form: Last Will and Testament (Standard)  
with Simplified Residue Clause\***

**LAST WILL AND TESTAMENT**

I, **David Eric Smith**, a resident of **Fulton** County, Georgia, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this to be my Will. When doing this I am of sound mind and under no duress or undue influence.

**1. GIFTS.** I give these gifts but to get a gift the recipient must survive the Testator, except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. GIFTS OF TANGIBLE PERSONAL PROPERTY BY SEPARATE WRITINGS.**

I may gift tangible personal property by writings separate from a Will as allowed by state law including Georgia Code § 53-4-5. Any such writing not found within 90 days of my death shall be canceled and of no effect. Any such writing existing when this Will is done is not revoked or canceled unless some part of this Will specifically says this.



**3. RESIDUE.** The rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in, I give to **Nancy Ann Smith and Pamela Bonnie Rooker my daughters who survive me**, and to lineal descendants per stirpes of a person just named who did not survive me.

**4. ADMINISTRATION.** I name and appoint **Nancy Ann Smith** my daughter as as Executor including for me, my Will, and my estate.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

If gift or gift section mentions survival, survive, or surviving then survival is an absolute condition and anti-lapse laws or similar have no effect.

Any failure to make gifts to family including children is intentional and not a mistake.

No gift or transfer made during life reduces or offsets a Will gift unless during my life I expressly called it a “loan” or “advancement”.

Use of particular gender shall include other genders, reference to singular or plural shall be interchangeable, and “they” may be singular or plural.

If context permits the terms Executor, Personal Representative, and Administrator shall be seen as interchangeable as if all were written, and if context permits Conservator is interchangeable with Guardian of Property and Guardian of the Estate.

An Executor may anytime pay or settle claims or debts they in their sole discretion find proper or helpful to pay, but I specifically say any secured debts including mortgages or liens on real property or vehicles should not be paid off unless parts of this Will specify it.

I give any person named or acting as Executor the fullest power and discretion allowed by state law, and I grant them all powers that may be conferred on Executors by Georgia law including Georgia Code §§ 53-12-261 and 263 et seq., as amended.

Any person named or acting as Executor shall not be required to render and file annual accountings with respect to property or money including in relation to my Will or estate.

I authorize informal probate of my estate and Will and also administrative probate if any Executor chooses, and any Executor may act independently in all ways.

I give any Executor authority to lease, sell, mortgage, convey, or retain property of mine in such manner and at such time they deem in the best interest, helpful, or proper.

The residue includes lapsed or failed gifts, insurance paid to estate, inheritances owed me, and property I had a power of appointment or testamentary disposition over.

If in Georgia or other place a Conservator, Personal Representative, Administrator, Guardian of the Estate, any other fiduciary is needed for a child of mine or their estate or property, or for any other person, then I appoint for that the person named Executor above.

Any Executor, Guardian, Personal Representative, Conservator, Administrator, or fiduciary under this Will or otherwise, shall qualify and serve without bond, security, surety, or similar, including despite place of residence or lack of ties to a state or country.

This Will does not revoke a Living Will or any legal document concerning health care.

**TESTATOR**

IN WITNESS WHEREOF, I, David Eric Smith, sign, publish, and declare this instrument as my Will, this 21st day of June, 2021.

David Eric Smith

Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator and Testator declared it to be the Testator's Will, which signing and declaration was made in the presence of us the witnesses, and we do now sign our names in this document below as witnesses at the request and in the presence of the Testator and presence of each other on this 21st day of June, 2021.

Nancy Ann Smith

Witness signature

204 Main Street, Buffalo, GA 30451

Witness address

Pamela Bonnie Rooker

Witness signature

83 River Road, Lakeville, GA 30028

Witness address

**Sample Filled Out Form: Self-Proving Affidavit**  
**SELF-PROVING AFFIDAVIT**

STATE OF GEORGIA

COUNTY OF Fulton

Before me, the undersigned authority, on this day personally appeared David Eric Smith (testator), Nancy Ann Smith (witness), and Pamela Bonnie Rooker (witness), known to me to be the testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said individuals being by me duly sworn, David Eric Smith, testator, declared to me and to the witnesses in my presence that said instrument is the last will and testament or a codicil to the last will and testament of the testator and that the testator had willingly made and executed it as a free act and deed for the purposes expressed therein. The witnesses, each on oath, stated to me in the presence and hearing of the testator that the testator had declared to them that the instrument is the testator's last will and testament or a codicil to the testator's last will and testament and that the testator executed the instrument as such and wished each of them to sign it as a witness; and under oath each witness stated further that the witness had signed the same as witness in the presence of the testator and at the testator's request; that the testator was 14 years of age or over and of sound mind; and that each of the witnesses was then at least 14 years of age.

David Eric Smith

Testator

Pamela Bonnie Rooker

Witness

Nancy Ann Smith

Witness

Sworn to and subscribed before me by David Eric Smith, testator, and sworn to and subscribed before me by Nancy Ann Smith and Pamela Bonnie Rooker, witnesses, this 21st day of June, 2021.

Jonathon Montgomery

Notary Public



**Sample Filled Out Form: Tangible Personal Property List**

**TANGIBLE PERSONAL PROPERTY LIST**

My Will may refer to separate writings making gifts to occur at death and I do this writing for that purpose, including as allowed Georgia Code § 53-4-5.

I understand in this writing only tangible personal property can be given and also only things not specifically disposed of by Will.

I may do many pages of these writings at different times and they all should be seen as 1 document, and if any conflicts occur the more recently done page controls.

If a person getting a gift below does not survive me such gift shall lapse and instead that property passes as my Will says including by a Will residue clause.

This page if not found within 90 days of my death shall have no effect.

**PROPERTY ITEMS**

**NAMES OF RECIPIENTS**

1998 Ford Truck	to Samantha Bell
1.3 carat diamond ring + Irish rings	to Ann Sue Reed
14 ft power boat + kayak + paddles	to L. Wheeler
Parkhurst style bench	to Reba Stewart
glass table, telescope, all umbrellas	to Rebecca Stewart
18 wood cups, oak platter, oak vase	to Mary and Cindy Lott
my wedding dress and shoes	to Mary Lott
chainsaw with serial no. 382937	to Mary Lott
chainsaw with serial no. 89930	to Matt Smith
antique lanterns + repair kits	to Sue Wu maid at Hart Hotel
oak lamp kept on porch	to Mary Kay Poppler
sewing machines	to Mary Kay Poppler
rocking chair bought in Oregon	to Don Winkler boat mechanic
all fishing poles and fishing nets	to Joe "Fish" Hoss, fishing pal
purple couch	to Ken Baker
	to

DATE: 12-12-2022

SIGNED: David Eric Smith

